Saroj & Ors. V. Iffco-Tokio General Insurance Co. & Ors.

- **TOPIC :** Aadhaar Card Not Suitable As Proof Of Date Of Birth : Supreme Court
- **BENCH** : Justices Sanjay Karol and Ujjal Bhuyan

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether aadhaar card will be suitable as proof of date of birth or not.
- **OBSERVATIONS**
  - The Supreme Court has set aside a High Court's decision to accept the date of birth mentioned in the Aadhaar Card to determine the age of the victim in a motor accident compensation case.
  - The bench comprising Justices Sanjay Karol and Ujjal Bhuyan was not inclined to accept the suitability of the Aadhaar Card as proof of age.
  - The Court observed that instead of referring to the date of birth mentioned in the Aadhaar Card for determining the age of the deceased, the age of the deceased can be more authoritatively determined from the date of birth mentioned in the school leave certificate having statutory recognition under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015.
  - It was the case where the compensation of Rs.19,35,400/- decided by the Motor Accidents Claim Tribunal (MACT) was reduced to Rs.9,22,336/- by the High Court upon noting that the MACT had wrongly applied the age multiplier while determining the compensation to deceased LRs.
  - The High Court upon relying on the date of birth mentioned in the deceased Aadhar Card, calculated his age as 47 years and applied the multiplier of 13.
  - The appellants/ Legal Representatives challenged the High Court's decision contending that the High Court erred in referring to the Aadhar Card to calculate the deceased age.
  - They referred to the deceased's School Leaving Certificate to contend that his age at the time of the incident was 45 years and accordingly a multiplier of 14 would apply.
  - Finding force in the appellant's contention, the judgment authored by Justice Karol discussed various High Court decisions on the point of whether an Aadhar Card can serve as proof of age.
  - The Court also noted the Unique Identification Authority of India, by way of its Circular No.08 of 2023, has stated, that an Aadhar Card, while can be used to establish identity, it is not per se proof of date of birth.
  - In essence, the bench was not convinced of the suitability of the Aadhar Card as proof of age.
  - ‘‘That being the position, as it stands with respect to the determination of age, we have no hesitation in accepting the contention of the claimant-appellants, based on the School Leaving Certificate. Thus, we find no error in the learned MACT's determination of age based on the School Leaving Certificate.’’, the court observed.
  - Applying a multiplier of 14 and keeping future prospects to be 25% instead of 30% as fixed by MACT, the Court upon applying the law laid down in the National Insurance Co. Ltd. v. Pranay Sethi (2017) judgment directed the respondents to pay Rs.15,00,000/- as compensation to the Appellant.
  - ‘‘The appeals are allowed, the total amount, i.e., Rs.14,41,500, in the interest of just compensation is rounded off to Rs.15,00,000/- with 8% interest from the date of filing of the claim petition to be released to the rightful claimants in the manner directed by the Tribunal.’’, the court held.

Abhishek and Anr. v. State of Rajasthan and Ors.

- **TOPIC :** Investigation Transfer To CBI Cannot Be Ordered While Rejecting Bail Application: Supreme Court
- **BENCH :** Justice Abhay Oka and Justice Augustine George Masih

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether investigation transfer to CBI can be ordered while rejecting bail application or not.
- **BACKGROUND**
  - The Rajasthan High Court's order to transfer the investigation to the CBI was passed in a murder case involving the bajri (sand) mafia.
  - The case involved the killing of a 22-year-old man from a marginalized Scheduled Caste/Scheduled Tribe (SC/ST) community, allegedly murdered at the behest of the sand mafia to "set an example" and protect its interests.
  - The single-judge bench of Justice Sameer Jain transferred the case to the CBI after observing multiple discrepancies in the investigation conducted by the state police and the Criminal Investigation Department (CID).
  - The High Court found that the investigation was "unfair, tainted, and incomplete," particularly in the medical reports, which had conflicting findings regarding the cause of death.
  - The postmortem report indicated 14 injuries on the victim's body, including severe injuries to his neck, which were considered the primary cause of death. Despite these findings, the state medical experts attributed the death to intoxication and deemed the injuries "simple," leading the Court to question the investigation's integrity.
  - Further, the Court noted procedural lapses in the handling of the case under the SC/ST Act. The FIR was delayed by three days, and several key provisions of the Act were not followed, which hampered evidence collection.
  - Despite allegations against individuals connected to the sand mafia, no charges were filed against them. The family of the deceased also alleged that they were pressured to enter into a compromise through threats or financial incentives.
  - In light of these factors, the Rajasthan High Court deemed it necessary to transfer the investigation to the CBI.
- **OBSERVATIONS**
  - The Supreme Court held that the Court cannot transfer the investigation to another agency while dealing with bail applications filed under Section 439 of the CrPC.
  - ‘‘Suffice it to say that while rejecting the bail application filed by the appellant the High Court ought not to have transferred the investigation to CBI. The direction is virtually to make de novo investigation. Such a direction could not have been issued while rejecting the bail application filed by the appellant’’, the Court observed.
  - A bench of Justice Abhay Oka and Justice Augustine George Masih set aside Rajasthan High Court's decision to transfer the investigation in a murder case to the CBI while rejecting the bail application of the accused.
  - The Rajasthan High Court had transferred the investigation from the state police and the CID to the CBI after observing that the investigation was tainted and had "pricked the judicial conscience."
  - The High Court had rejected the bail plea while simultaneously ordering the transfer of the probe. Thus, the accused approached the Supreme Court.
  - The Supreme Court observed that the High Court, while rejecting the appellant's bail plea under Section 439 of the CrPC, should not have transferred the investigation to the CBI.
  - ‘‘While dismissing the bail application, can the High Court send the case to the CBI? What kind of order is this? This is an application under Section 439 CrPC. In a bail application there can't be a transfer of investigation’’, Justice Oka remarked during the hearing.
  - The Supreme Court also took note of the progress made in the trial. Out of the 67 witnesses cited, 14 had been examined, and the state had filed a counter affidavit. The bench stated that after reviewing the postmortem notes and the evidence provided by the medical officer, it was satisfied that the appellant had made a case for being granted bail. Additionally, the state's counter did not mention any antecedents of the appellant, the Court noted.
  - Accordingly, the Supreme Court set aside the impugned judgment rejecting the bail application and transferring the investigation to the CBI.
  - The Court directed that the appellant be produced before the trial court within one week, and the trial court was directed to enlarge the appellant on bail, subject to appropriate terms and conditions until the conclusion of the trial.

Akbal Ansari v. State (NCT of Delhi

- **TOPIC :** Supreme Court Strikes Down Delhi HC's ‘‘Strange’’ Bail Condition That Accused Must Arrange Accommodation & Reside In Delhi During Trial
- **BENCH :** Justice Abhay Oka and Justice Augustine George Masih

❖ **FORUM:** Supreme Court

❖ **MAIN ISSUE**

➢ Whether Delhi HC's ‘‘Strange’’ Bail Condition That Accused Must Arrange Accommodation & Reside In Delhi During Trial can be struck down or not.

❖ **BACKGROUND**

➢ The appellant is facing charges under Sections 302, 201, 120B & 34 IPC read with Section 27 of the Arms Act for allegedly conspiring in the murder of deceased Sanjeev Kumar, who was declared dead at the hospital with gunshot injuries.

➢ The prosecution has alleged that the wife of the deceased along with his first wife and daughter hired a contract killer through the appellant to kill the deceased and obtain his properties.

➢ The Delhi High Court granted bail to the appellant but imposed conditions including the requirement to reside in Delhi during the trial, provide an address, and report frequently to the police station, which were challenged in the present SLP before the Supreme Court.

❖ **OBSERVATIONS**

➢ The Supreme Court struck down a bail condition imposed by the Delhi High Court in a murder case that required the accused to arrange accommodation in Delhi and reside there during the trial.

➢ A bench of Justice Abhay Oka and Justice Augustine George Masih, while dealing with an SLP filed by the accused against the bail conditions, found this condition to be ‘‘strange’’ and observed

➢ ‘‘The High Court has recorded a finding that the appellant is entitled to be enlarged on bail. However, the High Court has imposed the strange condition of directing the appellant to arrange an accommodation in Delhi and reside in Delhi till the conclusion of trial. Such a condition cannot be said to be a condition of bail.’’

➢ The Supreme Court ordered that this particular condition, along with two other associated restrictions, be removed. The other conditions that were set aside included prohibitions on the appellant leaving Delhi without the trial court's permission and the requirement to report to the local police station in Delhi three times a week.

➢ The Supreme Court allowed the appeal in part, setting aside conditions numbered ii, iv, and v of the Delhi High Court's bail order. The Court further directed that a new condition be imposed requiring the appellant to report to the local police station on the 1st and 15th of every month between 10 a.m. and 11 a.m. for the duration of the trial.

MC Mehta v. Union of India

❖ **TOPIC :** Stubble Burning Violates Fundamental Right To Pollution-Free Environment Under Article 21, Supreme Court

❖ **BENCH :** Justice Abhay Oka, Justice Ahsanuddin Amanullah

❖ **FORUM:** Supreme Court

❖ **MAIN ISSUE**

➢ Whether Stubble Burning Violates Fundamental Right To Pollution-Free Environment or not Under Article 21.

❖ **OBSERVATIONS**

➢ The Supreme Court has emphasized that stubble burning is not merely an issue of breach of law but it constitutes violation of citizens' fundamental right to live in a pollution-free environment, guaranteed under Article 21 of the Constitution.

➢ ‘‘Time has come to remind us to the Government of India and the state governments that there is a fundamental right vesting in every citizen under Article 21 of the constitution of India to live in a pollution free environment. These are not the matters only of implementing the existing laws,

these are the matters of blatant violation of fundamental rights guaranteed under Article 21 of the Constitution.

- It is not only a question of implementing the orders of the Commission and taking action for breaches of law. The government will have to address the question of how they are going to protect the right of citizens to live with dignity and in a pollution free environment'', the Court observed.
- A bench of Justice Abhay Oka, Justice Ahsanuddin Amanullah, and Justice Augustine George Masih was hearing the MC Mehta case concerning air pollution in Delhi NCR, specifically focusing on stubble burning in Punjab and Haryana.
- Criticizing the failure of both states and the Commission for Air Quality Management (CAQM) to take penal action against violators, the Court last week had summoned the Chief Secretaries of Punjab and Haryana.
- The bench today criticized both the states for the manner in which the state governments are taking action to implement CAQM order dated June 10, 2021 on stubble burning.
- The Court noted that while the governments of Punjab and Haryana claimed that monitoring as per the CAQM order is being done by officers at various levels, both failed to place on record specific actions taken by these officers.
- The Court pulled up the states of Punjab and Haryana for selectively initiating actions against the violators of the ban on stubble burning, with only a few being booked in FIRs and most others having to pay only a nominal fine. "So you impose nominal fines. You have given license to people to commit breach", Justice Oka remarked.
- The Chief Secretary of Haryana claimed that 5,153 Nodal Officers had been appointed, leading to a significant reduction in fires—from 9,800 in previous years to 655 this year.
- He explained that out of these 655 cases, 200 were found to be false upon inspection. However, the court pointed out that out of over 400 cases of stubble burning, FIRs were registered only against 93 persons.
- ''There is no machinery under amended Section 15 of the Environment (Protection) Act. You are collecting compensation under Section 15 EPA deliberately so that it can later be quashed in appeal...This is all eyewash going on. Is there some policy devised by you? Some people are arrested but some are only fined?'' The Court questioned the Chief Secretary of Haryana.
- ''We find that selective action is being taken in some. In some cases the governments are claiming that they have recovered compensation and in few cases they are claiming that they have registered FIRs. Environmental compensation stated to be recovered is minimal...The manner in which action is being taken by the governments is reflected from the figures given across the bar.
- For example this year there are 1084 identified cases of stubble burning in Punjab. However compensation has been recovered from only 473 persons.
- In Haryana there are 419 cases identified but FIR has been lodged only against 93 wrongdoers and in the case of 328 wrongdoers, nominal compensation has been recovered. Prima facie it appears to us that the penal provisions are not being consistently implemented by both the states'', the Court observed in its order.
- Justice Oka also raised concern about political reluctance in prosecuting farmers. ''If these governments are really interested in implementing the law, there will have been at least one prosecution.
- The Advocate General last time has clearly said maybe for political reasons they find it difficult to take action against the farmers. Obviously it is political. What else is it?''
- The bench questioned the Punjab Chief Secretary as well as the Advocate General regarding a false statement made in the hearing on October 3, where it was claimed that a proposal seeking funds for tractors and drivers for farmers had been sent to the central government. On October 16, the Court had noted that no such proposal had been submitted to the center. AG Gurminder Singh told the Court that such a proposal has now been sent to the Centre.
- The Court directed the Union Government to address the State of Punjab's request for additional funds to provide tractors, drivers, and diesel to small farmers and take a decision within two weeks.
- The matter is listed for further hearing on November 4.

Moidunni and Another v. The State of Kerala and Others

- **TOPIC :** Forest Tribunal Unlike High Court Has No 'Inherent Power' Of Review: Kerala High Court 5-Judge Bench
- **BENCH** : Justices A. Muhamed Mustaque, Gopinath P., P. G. Ajithkumar, Shobha Annamma Eapen and S. Manu

- **FORUM:** Kerala High Court
- **MAIN ISSUE**
  - Whether the Tribunal constituted under the Kerala Private Forests (Vesting and Assignment) Act has inherent power of review or not.
- **OBSERVATIONS**
  - A five judge bench of the Kerala High Court has held that the Tribunal constituted under the Kerala Private Forests (Vesting and Assignment) Act has no inherent power of review and this authority has to be traced to the provisions permitting the review.
  - In doing so the bench said that the Tribunal's power of review under Section 8B (3) cannot be enlarged on grounds other than those mentioned in Section 8B(1) of the Act.
  - For context, Section 8B(1) states that a custodian under the Act can apply for review of the decision of the Tribunal on the following grounds:

1. If the decision has been based on the concessions made before the Tribunal without the authority in writing of the Custodian or the Government
2. Due to the failure to produce relevant data or other particulars before the Tribunal
3. When appeal could not be filed by reason of the delay in applying and obtaining a certified copy of the decision

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  - A bench of Justices A. Muhamed Mustaque, Gopinath P., P. G. Ajithkumar, Shobha Annamma Eapen and S. Manu in its order said, "The Tribunal has no inherent power of review and the authority of the Tribunal to review its orders will have to be traced to the provisions permitting review. The High Court being a Court of record and being a Superior Court of unlimited jurisdiction will, however, have an inherent power of review even dehors the provisions of the statute"
  - "The provisions of sub-section (3) of Section 8B are not intended to enlarge or permit a review on grounds other than those mentioned in Section 8B(1) of the 1971 Act," it added.
  - The five judge bench was hearing a reference with regard to matters placed before it pertaining to a common order dated August 1 rendered by a Full Bench of the high court.
  - The reference was necessitated on account of the fact that another Full Bench of the court in Pankajakshy Amma v. Custodian of Vested Forests (1995) had taken a view, that the power of review conferred on the Tribunal under Section 8B(3) of the Act is a provision independent of Section 8B(1).
  - The full bench had said that the grounds for review under Section 8B(3) of the Act are not circumscribed or controlled by the grounds mentioned in Section 8B(1).
  - Following this decision, a division bench of the high court in Ibrahim v. Custodian of Vested Forests (2000) had said that the full bench in its decision had only meant that if the grounds mentioned in Section 8B(1) were existing and once it is found that a review is necessary upon grounds, then the Tribunal could thereafter conduct a fresh hearing of the matter and take into account every aspect.
  - Subsequently another division bench of the court in Thankappan v. State of Kerala (2002) again considered the law laid down in Pankajakshy Amma and held that the view in Ibrahim goes contrary to the law laid down by the full bench.
  - Answering the reference the five judge bench said, "The judgment of the Full Bench in Pankajakshy Amma (supra) does not lay down the correct law to the extent it holds that the power of review under Section 8B(3) is not restricted or controlled by Section 8B(1) of the 1971 Act and to the extent it holds that a review under Section 8B of the 1971 Act could be maintained dehors the grounds set out in Section 8B(1) of the 1971 Act".
  - The five judge bench further said that the word 'review' is used in Section 8B and 8C of the Act, this is not a review as mentioned under Order XLVII Rule 1 CPC or any inherent power of review vested in the High Court.

- The review mentioned in the Act enables the recall of an order/ judgment of the Tribunal/ High Court on account of any of the grounds mentioned under Section 8B or Section 8C of the Act.
- The Court observed that such a review would entail a re-hearing or re-adjudication of the entire subject matter.
- In such a case, the dispute is no longer limited to the grounds mentioned in Section 8B(1) of Sections 8C(1), (2) or (3).

MRB Nurses Empowerment Association v. The Principal Secretary and Others

- **TOPIC :** Provisions Of Maternity Benefits Act Prevail Over Contractual Conditions, Would Apply To Contractual Employees: Madras High Court
- **BENCH :** Chief Justice KR Shriram and Justice Senthilkumar Ramamoorthy

Justice Sanjiv Khanna

- **FORUM:** Madras High Court
- **MAIN ISSUE**
  - Whether Provisions Of Maternity Benefits Act Prevail Over Contractual Conditions or not.
- **OBSERVATIONS**
  - The Madras High Court recently reiterated that the provisions of the Maternity Benefits Act would prevail over any contractual conditions set up by the employer to deny maternity benefits to a woman.
  - The bench of Chief Justice KR Shriram and Justice Senthilkumar Ramamoorthy observed that the benefits of the Maternity Benefits Act would be applicable to contractual employees and the employer could not rely on the contract of employment to deny them such benefits.
  - ‘‘By virtue of Section 27, the provisions of the 1961 Act will prevail over contractual conditions denying or offering less favourable maternity benefits. Consequently, the reliance by the respondents on condition 6 of the Appointment and Posting Order to deny maternity benefits is untenable,’’ the court said.
  - The court was hearing a writ petition filed by MRB Nurses Empowerment Association to direct the Department of Health and Family Welfare in the state to extend maternity benefits including 270 days of paid maternity leave to all staff nurses working under the National Rural Health Mission scheme.
  - The petitioner association submitted that it was established with the sole purpose of upliftment of staff nurses.
  - The association informed the court that the state had recruited more than 11,000 staff nurses through competitive exams on a consolidated pay of Rs. 7,000 per month which was later revised to Rs. 14,000 per month.
  - The association argued that they had been working under the Scheme for more than two years and were thus eligible for maternity leave of 270 days with pay as per the Maternity Benefits Act.
  - They further submitted that the State had been denying them the benefits merely because they were contractual employees.
  - The State, on the other hand, submitted that the nurses were not eligible for any kind of leave as applicable to regular Government servants except for casual leave and day off.
  - The State submitted that in case of any untoward incident, the nurses were permitted to avail the leave other than casual leave and day off and the same would be considered as leave without pay.
  - The court ruled that as per the recent ruling of Dr Kavita Yadav v. Secretary, Ministry of Health and Family Welfare Department and others, the Supreme Court had held that once a lady employee fulfills the eligibility criteria specified in Section 5(2), she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract.
  - The court thus directed the authorities to consider all pending and fresh applications for maternity benefits within 3 months and ordered accordingly