



CA MADE EASY

BUSINESS LAW IMPORTANT QUESTIONS

INDIAN REGULATORY FRAMEWORK

Q1. Explain the types of laws in the Indian Legal System considering the Indian Regulatory Framework?

6M, JUNE24, RTP, MTP

ANS: The law in Indian legal system could be classified as follows:

Criminal Law: Criminal law is concerned with laws pertaining to violations of the rules of law or public law and punishment of the same. Criminal law is governed under the Indian Penal Code (IPC), 1860, and the Code of Criminal Procedure (CRPC) 1973. The Indian Penal Code defines, Crimes, Nature and its punishments whereas CRPC defines exhaustive procedure for executing the punishment of the crimes. Murder, Rape, theft, fraud cheating and assault are the examples of criminal offences under the law.

Civil Law: Matters of disputes between individuals and organizations are dealt under civil law. Civil law primarily focuses on dispute resolution rather than punishment. The act of process and the administration of civil law are governed by the Code of Civil Procedure, 1908 (CPC). Civil law can be further classified into Law of Contract, Family Law, Property Law, and Law of Tort. Some examples of civil offences are breach of contract, non-delivery of goods, non-payment of dues to lender or seller defamation, and disputes between landlord and tenant.

Common Law: A judicial precedent or a case law is common law. A judgment delivered by the Supreme Court will be binding upon the courts within the territory of India under Article 141 of the Indian Constitution. The doctrine of Stare Decisis is the principle supporting common law. It is a Latin phrase that means “to stand by that which is decided.” The doctrine of Stare Decisis reinforces the obligation of courts to follow the same principle or judgement established by previous decisions while ruling a case where the facts are similar or “on all four legs” with the earlier decision.

Principles of Natural Justice: Natural justice, often known as Jus Natural deals with certain fundamental principles of justice going beyond written law. **Nemo judex in causa**

sua (Literally meaning “No one should be made a judge in his own cause, and it’s a Rule against Prejudice), **audi alteram partem** (Literally meaning “hear the other party or give the other party a fair hearing), and reasoned decision are the rules of Natural Justice. A judgement can override or alter a common law, but it cannot override or change the statute.

Q2. What is the structure of Indian Judicial System, and what is the hierarchy of courts in India?

6M, JAN25

OR

What do you understand by Indian Judicial System & what are its various functions? RTP,

JUN24

OR

Explain the hierarchical structure of Indian Judicial System. Describe the powers & functions of Supreme Court, High Courts, District Courts, and Metropolitan Courts.

RTP

OR

What is the significance of Supreme Court & High Court in the Indian judiciary? 6M, RTP,

J25, ICAI MODULE

ANS: When there is a dispute between citizens and between citizens and government, these disputes are resolved by judiciary.

The Function of Judiciary System of India are:

- Regulation and Interpretation of the acts and codes,
- Dispute resolution
- Promotion of fairness among the citizens of the land.

In the hierarchy of courts, the Supreme Court is at the top, followed by the High Courts and District Courts. Decisions of a High Court are binding in the respective state but are only persuasive in other states. Decisions of the Supreme Court are binding on all High Courts under Article 141 of the Indian Constitution. In fact, a Supreme Court decision is the final word on the matter.

- i) **Supreme Court:** The Supreme court is the apex court of India established on 26 January 1950. The Chief Justice is the highest authority appointed under article 126. The principal bench of Supreme court consists of 7 members including Chief Justice of India. Presently the number has increased to 34 including Chief Justice of India due to rise in the workload and number of cases. An individual can seek relief in Supreme court by filing a writ petition under article 32 of the Constitution of India.
- ii) **High Court:** The highest court of appeal in each state and union territory is the high court. Article 214 of Indian constitution states that there must be a high court in each state. The high court has appellate, original jurisdiction and Supervisory jurisdictions, however article 227 of the Indian constitution limits a high court's supervisory power. In India, there are 25 high courts one for each state and union territory. Six states share a single High Court. An individual can seek remedies against violation of fundamental rights in High Court by filing a writ under Article 226.
- iii) **District Court:** Below the high courts are the district courts. The court of District Judge deals with civil law matters i.e. contractual damages, claim for disputes etc. The courts of session deals with criminal matters.

On the basis of pecuniary jurisdiction, a civil judge can try suits valuing not more than Rupees two crores. On the basis of territorial jurisdiction, courts have the power to control the areas covered by them. Cases are decided based on the local limits within which the party resides, or the property under dispute is situated.

- iv) **Metropolitan courts:** Metropolitan courts are established under the metropolitan cities in consultation with the high court where the population is ten lakh or more. Chief Metropolitan Magistrate has powers as Chief Judicial Magistrate and Metropolitan Magistrate has powers as the Court of a Magistrate of the first class.

Q3. Describe in brief about the following Regulatory bodies of the Government of India:-

- (i) Reserve Bank of India
- (ii) Insolvency and Bankruptcy Board of India

6M, JAN26

ANS: Reserve Bank of India:

- It is the central bank of India and regulatory body which is responsible for the regulation of the Indian banking system.
- It is under the ownership of Ministry of finance, government of India.

- It is responsible for the control, issue and maintaining supply of the Indian rupee.
- Bhartiya Reserve Bank Note Mudran (BRBNM) is a specialized division of RBI through which it prints and mints Indian currency notes (INR).
- RBI established the National Payment Corporation of India (NPCI) as one of its specialized division to regulate the payment and settlement systems in India.
- Deposit Insurance and Credit Guarantee Corporation was established by RBI as one of its specialized division for the purpose of providing insurance of deposits and guaranteeing of credit facilities to all banks.

Insolvency and Bankruptcy Board of India (IBBI):

- Is the regulator for overseeing insolvency proceedings and entities like Insolvency Professional Agencies (IPA), Insolvency Professionals (IP) and Information Utilities (IU) in India.
- It was established on 1st October 2016 and given statutory powers through the Insolvency and Bankruptcy Code, which was passed by Lok Sabha on 5th May 2016.
- It covers Individuals, Companies, Limited Liability Partnership Firms. The new code will speed up the resolution process of stressed assets in the country.
- It attempts to simplify the process of insolvency and bankruptcy proceedings.
- It handles the cases using two tribunals like NCLT (National Company Law Tribunal) and Debt recovery tribunal.

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THANK YOU.

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