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Sections 2 (3), 147 & 165	- Use of the motor vehicle is a sine qua non for entertaining a claim for compensation Driver as a user and controller of vehicle, owner as the employer of the driver constructively and Insurance Company as per contract of insurance vicariously liable for the compensation 'Financer', in case of hire purchase, is not an 'owner' for the purpose of imposing any liability in respect of a motor accident	392 370
Sections 2 (16), 2(21), 2(23) & 149 (2) (a) (ii)	- 'Light goods vehicle' comes under the definition of 'Light Motor Vehicle' prior to the amendment dated 28.03.2001	281 242
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Section 128	- Violation of S. 128 of the Act, effect of – Carrying more than one pillion rider on the motorcycle in contravention of S. 128 of the Act by a driver – Does not always raise a	

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Sections 10, 14 (2) (a) & 149 (2) (a) (ii)	<p>presumption either regarding contributory negligence on the part of motor cyclist or pillion rider or regarding composite negligence on the part of motor cyclist – It is only when casual connection is established between the accident and the violation of the provision of S.128 of the Act that the question of contributory or of composite negligence can arise</p> <p>- Accident caused by goods transport vehicle (auto rickshaw delivery van) – Driving licence shows that he was not granted a valid driving licence for driving a transport vehicle in terms of Section 10 of the Motor Vehicles Act, 1988 – Insurance Company is not liable</p>	66 50
Section 15	<p>- Renewal of driving licence – Driver was not possessing valid licence at the time of accident – Insurance Company not liable</p>	592* 476 593* 476
Sections 128, 168 & 173	<p>- The act of allowing two pillion riders to sit while driving a moped vehicle would not amount to negligence of driver in itself</p>	284* 245
Sections 140, & 149 (2)	<p>- Enquiry u/s 140 of the Act, scope of</p>	168* 141
Sections 145 & 147	<p>- Liability of Insurance Company for indemnification, extent of :</p> <p>Any person other than the insurer and the insured is a third party – However, the insurer would not be liable for any bodily injury or death of a third party in an accident unless the liability is fastened on the insurer u/s 147 of the Act or under the terms and conditions of the policy of insurance</p> <p>The insurer is not liable to cover any liability in respect of death or bodily injury of an employee u/s 147 (1) of the Act unless such employee falls in one of the categories mentioned in sub-clauses (a), (b) & (c) of Clause (i) of the proviso to sub-section (i) of S.147 of the Act and further the insurer is liable only for the liability under the Workmen's Compensation Act, 1923</p>	67 52
Sections 145 & 149	<p>- Bus was being plied without permit – Met with an accident – The Claims Tribunal rightly directed that the insurer will have a right of recovery of amount of compensation from the owner/insurer of the vehicle as there was breach of policy</p>	393* 373

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Section 147	- Liability of insurer – Insurer has no liability in respect of passengers travelling in goods carriage	169*	141
Section 147	- Goods carriage, liability in respect of owner of goods or his authorized representative, scope of – It depends upon the mode of travel and number of persons – Owner of goods means the person travelling in cabin and not with the goods	170	142
Sections 147	- Cheque issued by insured towards payment for premium was dishonoured – As a result policy of insurance was cancelled and intimated to the insured much before the accident occurred – Insurer not liable to pay compensation	285	245
Section 147	- See Insurance Act Section 64-VB	494*	488
Section 147	- Pillion rider on two wheeler is not a third party not covered by statutory policy issued u/s 147 – Risk of a pillion rider would be covered only in case the requisite amount of additional premium is paid under the contract of insurance as also required for owner's risk	499	496
Sections 147 & 149	- Principles laid down in <i>Swaran Singh's case</i> , (2004) 3 SCC 297 applicability of – Fake or invalid driving licence or disqualification of driver – Liability of Insurance Company – Principles laid down in <i>Swaran Singh's case</i> (supra) is applicable to third party claim only	286	247
Sections 147 & 149	- Vehicle in question was insured – Licence held by the driver was fake but subsequently it was renewed – Insurance Company refused		

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<p>Sections 147, 166 & 173</p>	<p>- Tractor was registered in the name of father of the deceased daughter – Tractor at the time of incident was stationed with the running condition of its engine negligently by its driver – Resultantly, it proceeded and ran over the deceased daughter of owner/insured – On the death of the daughter, her mother had a right to claim compensation against owner/insured – Subsequently, wife of the owner/insured also died – Held, the owner of the vehicle is entitled to recover compensation from Insurance Company for the accident as one of the legal representatives of the deceased and on account of death of his wife as sole representative of the deceased, though in the absence of additional premium, he may himself be incompetent to recover compensation as an owner</p>	<p>172 144</p>
<p>Sections 147 & 166</p>	<p>- Van belonged to a partnership firm – Driver (deceased) was also owner (one of the partners) of ill-fated van – No premium paid to insurer for risk of owner – Held, Insurer not liable to pay compensation</p>	<p>174* 145</p>
<p>Sections 147 & 149 (2) (a) (ii)</p>	<p>- On the date of accident driver of the truck (heavy goods vehicle involved) was holding licence to drive only light transport vehicle – Insurance Company is not liable to pay compensation</p>	

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	Deceased, a vegetable vendor was driving in 'goods carriage' for collecting empty vegetable boxes – He was not driving in the truck as owner of the goods with the vegetables – So Insurance Company would not be liable for any compensation	594*	477
Section 147 (2)	- Horse died in vehicular accident – Tribunal awarded cost of horse as Rs. 35,000/- plus Rs. 10,000/- for loss of its future income – Insurer challenged the award – Held, no extra premium for covering additional risk of the property of third party was paid – Insurer's liability limited upto Rs. 6,000/- as per provision of S. 147 (2)	173*	145
Section 149	- Own damage claim versus third party claim – Provisions of S. 149 relates only to the third party risk and claims – The benefit cannot be extended to the owner of the offending vehicle – Logic of fake licence has to be considered differently in respect of third party and in respect of own damage claim – Hence the Insurance Company has no liability	394*	373
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Section 163-A	- Claim for compensation filed by LRs of deceased driver of the Motor Vehicle under S. 163-A of the Act – Maintainability and scope of – Law explained	396	374
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Section 163-A & 166	<p>- It is now a well-settled principle of law that in a case where third party is involved, the liability of the insurance company would be unlimited – Where, however, compensation is claimed for the death of the owner or another passenger of the vehicle, the contract of insurance being governed by the contract qua contract, the claim of the insurance company would depend upon the terms thereof</p> <p>The provisions of S.163-A cannot be said to have any application in regard to an accident wherein the owner of the motor vehicle is involved – The liability u/s 163-A of the Act is on owner of the vehicle and a person cannot be both a claimant and also a recipient – The heirs of Janak Raj (owner) could not have maintained a claim in terms of S.163-A of the Act – For the said purpose, the contract of the insurance could be taken recourse to – According to the terms of contract of insurance, the liability of the Insurance Company was confined to Rs. 1,00,000/- (Rupees one lakh only) – It was liable to the said extent and not any sum exceeding the said amount</p>	500 (i) & (ii)* 497
Section 163-A & 166	<p>- Assessment of permanent disability as per the provisions of the Workman's Compensation Act, 1923 is to be made for a claim petition filed u/s 163-A and not under Section 166</p>	501 498
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Section 166	<ul style="list-style-type: none"> - Third party risk, scope of – Vehicle was duly insured and apart from normal premium, extra premium for the liability of the owner of the vehicle was also paid – Vehicle was parked at the courtyard of the house – While cleaning, the vehicle suddenly started and dashed against owner who received severe injuries and died –The Claims Tribunal, treating the deceased owner as third party, awarded compensation – Held, the deceased vehicle owner was not driving the vehicle whereas he was standing on the street when he was hit by the vehicle – Therefore, the deceased falls within the definition of 'third party' – Insurance Company, held liable to indemnify the whole award 	178 (ii) 147
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Sections 2 (xv), 2 (xviii), 41 (2) 42 (2), 43 & 57	<p>- Sections 2 (xv) and 2 (xviii) defines 'opium' and 'poppy straw' respectively – Licence for opium cannot be presumed for poppy straw also</p> <p>Where a Gazetted Officer empowered u/s 41 (2) himself conducted the search, arrested the accused and seized the contraband, it was not necessary to comply with sub-section (2) of Section 42 – Section 43 relates to power of seizure and arrest in public place</p>	604* 483
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Section 42	<p>- Casual search of bus – Two persons were found suspicious – Brown sugar recovered and seized – Held, it was a chance recovery in a public place during routine checking and provisions of S.42 has no application</p>	405* 385

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Section 42 & 43	<ul style="list-style-type: none"> - 'Public place', meaning of – Hotel is a public place – Rooms occupied in a hotel by a person is not a public place – Person who received information neither reduced it in writing nor sent it to his senior officer – Requirement of S.42 not complied with 	295 258
Sections 42 & 44	<ul style="list-style-type: none"> - Recovery of the opium from the possession of the appellant/accused stands proved and established – Senior police officer (DCP) also puts his seal on the said parcels of opium and till the date the parcels of sample were received by chemical examiner, the seal put on the said parcels was intact – In that view of the matter, delay of about 40 days in sending the samples did not and could not have caused any prejudice to the appellant/accused 	605* 484
Sections 42 & 50	<ul style="list-style-type: none"> - S. 50 of the Act, applicability of S.42 (2) of the Act, applicability of - Conscious possession, illustration of 	179 150
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Section 80	<ul style="list-style-type: none"> - Promissory notes did not specify rate of interest on the amounts due under promissory notes – Held, Board liable to pay interest @ 18% p.a. 	180*	150
Section 80	<ul style="list-style-type: none"> - When no rate of interest is specified in Negotiable Instrument, interest on the amount due thereon shall be calculated @ 18% p.a. 	318 (ii)*	281
Section 118 (a)	<ul style="list-style-type: none"> - Initial burden is on defendant to show that existence of consideration was improbable or doubtful or illegal – Mere denial of consideration is not sufficient – If this burden is discharged onus shifts on plaintiff (complainant) 	507	500
Section 138	<ul style="list-style-type: none"> - Cause of action – Complainant presented cheques which were dishonoured – Issued notice to the applicant – Did not file the complaint but presented the cheques once again – Issued second notice to the applicant – Filed complaint thereafter – Held, if dishonour of cheque has once snowballed into a cause of action, it is not permissible for 		

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Section 138	- Complaint case for dishonour of cheque dismissed in default of complainant at the stage of defence – Held, improper – Case should have been disposed of on the merits of the case	298	261
Section 138	- Mistake in complaint u/s 138 of the Act can be rectified provided no prejudice is caused to opposite party	76	58
Section 138	- Handwriting expert – Applicant has not denied his signature on cheque – No question in this regard was put to Bank Manager also – Other columns of cheque may be filled by anyone on the instructions of applicant himself – No useful purpose will be served by getting cheque examined by handwriting expert	358 (ii)*	329
Section 138	- Civil suit for recovery of money dues as well as criminal complaint under Section 138 of NI Act for the same cause of action is maintainable	607	485
Section 138	- Dishonour of cheque – Notice by registered post on correct address – Postman tried to deliver on several dates – Notice returned with remark 'addressee not available' – Presumption about service not rebutted – Held, notice duly served	563 (ii)*	453
Sections 138, 140 & 141	- Post dated cheque becoming due for payment after its signatory had resigned from Directorship of the Company and had given intimation to the complainant about his resignation and responsibility for the offence of dishonour of post dated cheque issued on behalf of Company		
	Discharge of such person from array of accused persons – Not interfered	608	486
Sections 138 & 141	- If an offence of dishonour of cheque u/s 138 is committed by a Company, then as per S.141 of the NI Act, every person who at the time of the offence, was committed by the Company was incharge of and was responsible		

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	to the Company for the conduct of the Company would be deemed to be guilty of the offence and would be liable to be prosecuted against specific averment as per S.141 in a complaint is an essential requirement – Merely being a Director of Company is not sufficient to make the person liable u/s 141 but Managing Director and Joint Director would become liable – Similarly signatory of a cheque is also responsible as he will be covered u/s 141 (2)	509* 503
Sections 138 & 142 - Dishonour of cheque – Period of limitation, counting of – Two demand notices were issued – First notice issued on receipt of oral information and thereafter on written information being received regarding dishonour of cheque, second notice was issued – Held, period of limitation will be counted on the basis of first notice and not on the basis of second	510	503
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Section 214	- Legal representative filed a suit for recovery of debt due to deceased – Succession certificate not produced – Held, S.214 of Succession Act does not bar institution of suit – Suit decreed by the Trial Court – Decree passed shall be treated provisional till production of Succession Certificate	318 (i)* 281
Section 217	- Suit for declaration of title and permanent injunction is maintainable even though the Probate Court granted the probate of Will as the Probate Court is not competent to decide whether testator had or had not the authority to dispose of the suit properties	189 156
Sections 263 & 283	- Probate Court is a limited jurisdiction Court not concerned with the question of title – Grant of Probate is judgment in rem – It binds not only parties but the entire world – Grant of Probate is final subject to appeal or revocation of it – Person aggrieved having no knowledge of proceeding and proper citations having not made is entitled to file an application for revocation	192 159
Section 278	- Article 137 of the Limitation Act would be applicable for the grant of Letters of Administration	520 514
Sections 283 & 307 (i)	- Probate proceedings – Transfer of property during probate proceedings – Transferee is not necessary party – Citations are necessary to be made only of those who claim through or under the Will or deny or dispute the execution of Will	91 68
Section 372	- Succession certificate – Obtained from the competent authority without impleading the necessary party i.e. nominee of government servant – Cannot be said to be as per law	426* 403
Section 372	- Claim for Succession Certificate by two wives of deceased – First wife was deserted and second wife had stayed on as his wife and bore four children – On the ground of equity, Certificate granted subject to condition that first wife will get 1/5th share of retiral benefits through the second wife	319 281

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Sections 372 & 387 - Succession certificate granted to son of deceased – Objector lady held not entitled to certificate as she was not found to be legally wedded wife of deceased by the Court – Held, objector lady can file a suit for declaration that she is the legal heir of the deceased – A separate suit is maintainable challenging succession certificate	193*	161
Chapters II & III - Probate proceedings, applicability of provisions under O.9, R. 13 of CPC	194*	161

TENANCY AND LAND LAWS

- Entries in revenue records versus ownership – Entry in jamabandi – Revenue records are relevant only for fiscal purpose – Substantive right of title and ownership on contesting claimants can be decided by a competent civil court in appropriate proceedings

625* 510

TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) ACT, 1987

- Sections 12, 18, 20-A (as inserted by Act 43 of 1993) - Designated Court debarred from taking cognizance of the offence under TADA Act for lack of sanction of Competent Authority – It has no jurisdiction to try any other offence under any other Act like Explosive Substances Act

320 282

TORTS

- Where the liability is joint and several, it is the choice of the claimant to claim from the owner, driver and the insurer of both the vehicles or any one of them

290 254*

Medical negligence – Family Planning Operation, failure of – Suit for damages for monetary burden of bringing up and providing basic and necessary amenities to the unwanted child

Defence put forth that doctor is qualified and there was no negligence on her part in performing the operation and failure of operation can be for a variety of reasons

Plaintiff failed to prove the negligence of the doctor by cogent evidence – Trial Court was justified in dismissing the suit

92 69

- Medical negligence – There was excess bleeding to young lady during the course of family planning operation in a camp – Death

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<p>occurred in transit when she was shifted to Indore which shows that there was no proper arrangement where she was operated – Medical negligence proved</p>	331 (ii)*	299
<p>TOWN IMPROVEMENT TRUST ACT, 1961 (M.P.) (Repealed by Act No. 22 of 1994)</p>		
- See Land Acquisition Act Section 23	495	488
<p>TOWN PLANNING</p>		
<p>- Housing/urban development authority – It is a statutory authority and responsible for planned development of the city – For this purpose it is under statutory obligation to grant sanction of plans for construction of buildings</p> <p>If somebody has made construction without obtaining any sanction, he must face the consequences therefor</p>	427*	404
<p>TRANSFER OF PROPERTY ACT, 1882</p>		
Section 52	- See Civil Procedure Code 1908 Order 23 Rule 3	541 433
Section 54	- Transfer by sale, requirement of – Law explained	195 (i) 162
Section 58	- If the sale and agreement to repurchase the same are embodied in separate documents then the transactions cannot be a mortgage, whether the documents are contemporaneously executed or not	622 (i) 505
Sections 58 & 60	<p>- Suit for redemption of mortgage, possession and for declaration that sale deed is void – It was alleged that defendants got the sale deed executed fraudulently and thereafter on objection being taken, an agreement was executed to the effect that suit land has been mortgaged and whenever plaintiffs will pay Rs.1,000/-, defendants will leave the possession – Thereafter plaintiffs tried to get back the land but could not succeed and ultimately filed the suit – Held, it is clear from the agreement that the sale deed was never intended to be acted upon – Considering the price, it cannot be held that proper price was paid as per the market value of the property – Further held, the sale deed is document of sham transaction of</p>	

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	ostensible sale and transaction in question was one of the mortgage in essence and substance	521	514*
Sections 58 (c) & 60	- Mortgagee remained in possession as tenant of mortgagee – Usufructuary mortgage – Mortgagee obtained a decree against the mortgagor for recovery of arrears of rent and pursuant to execution thereof also purchased mortgaged property in public auction – Barred under Order 34 Rule 14 CPC – Mortgagor's suit for redemption filed within the prescribed limitation is maintainable and his right to redeem would not extinguish even after the said purchase by the mortgagee – Purchase would only be in trust for mortgagor	428	404
Section 106	- Licensee is bound to hand over vacant possession of the premises on the license in respect of the same being terminated by licensor	243 (ii)	212*
Sections 106 & 111	- Lease – Determination of by forfeiture – Lease can only be forfeited when there is express violation of express condition by the lessee – Before the right of re-entry is exercised, it is necessary to terminate the tenancy by way of notice in writing – It is also necessary on the part of the competent Court to adjudicate the question regarding breach of the conditions of lease – Possession can only be obtained on the basis of the decree of the Court by filing of suit for possession and not directly taking the law in hand	437 (ii)*	414
Sections 107 & 108 (o)	- Company may allot the premises to its own officer for the same user after vacation – This does not amount to change of user within the meaning of Section 108 (o) of Transfer of Property Act	615	495

TRUSTS ACT, 1882

Section 90 & Illustration (c)	- See Transfer of Property Act Sections 58 (c) & 60	428	404
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UCHCHATAR NYAYIK SEWA (BHARTI TATHA SEWA SHARTEN) NIYAM, 1994 (M.P.)

Second Proviso to Rule 5 (1)	- M.P. Uchcharat Nyayik Sewa (Bharti Tatha Sewa Sharten) Niyam, 1994 Second Proviso to Rule 5 (1) provides that recruitment to the		
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ACT/ TOPIC	NOTE NO.	PAGE NO.
posts of District Judges (Entry Level) shall be made on the basis of the vacancies available till the attainment of the required percentage – The Proviso declared ultra vires under Articles 14, 16, 133 & 235 of the Constitution holding that it altogether prevents the consideration of Civil Judges (Senior Division) on the basis of merit-cum-seniority for promotion to the posts of District Judges (Entry Level) till the attainment of the required percentage	498*	496
Rule 7 (c) - See Constitution of India Article 233 (2)	347*	315

WILD LIFE PROTECTION ACT, 1972

- Power of Magistrate to make order u/s 451 of Cr.P.C. – Vehicle seized under Wild Life Protection Act – Sections 39 (1) (d) and 50 of the Act do not affect such power to direct release during pendency of trial

321 284

WORDS & PHRASES

- 'Negligence', meaning of
- 'Obstructive' and 'hazardous', meaning and difference there in explained
- 'Place within public view' is distinct from the word 'public place'
- 'Public place', definition of – It is to be construed liberally, broadly and pragmatically with a view to advance course of justice and not to defeat the same
- 'Physically handicapped person', meaning of
– The person must be proved to be prevented from pursuing ordinary daily pursuits
- The term 'office', connotation of
- 'To instigate', meaning of
- Words 'Promote' and 'Promotion', connotation of

157 (ii) 130

544 (ii) 437

617 (iii) 499

178 (i) 147

324 (iii) 288

327 (i) 292

263 (ii)* 231

621 504

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