Banking & Insurance Laws

April 10, 2024	PHR Invent Educational Society (Appellant (s)) Vs. UCO Bank and Ors. (Respondents)	Supreme Court of India

Facts of the Case:

The Borrower had availed a loan from the Respondent- Bank and the Borrower had mortgaged four properties as collateral security. However, the Borrower defaulted in the repayment of the loan amount, which led the Respondent-Bank to initiate proceedings against the borrower under the SARFAESI Act.

Bank issued an Auction Sale Notice on 2nd September 2017 for auctioning off the scheduled properties Aggrieved by the Auction Sale Notice, the Borrower preferred a securitization application for setting it aside. The appellant participated in the said auction and emerged as the highest bidder for a bid of Rs.5,72,22,200/-. The appellant deposited 25% of the bid amount i.e. Rs. 1,38,05,550/- including the Earnest Money Deposit. The fact remains that the Borrower did not deposit the amount.

On the same day, DRT passed an interim order in S.A. No. 1476 of 2017, refusing to interfere with the sale of the scheduled properties. The Borrower filed an interlocutory application, praying for stay of further proceedings qua the auction of the scheduled properties, wherein DRT directed the Respondent- Bank not to confirm the sale of the scheduled properties unless the Borrower deposits 30% of the outstanding dues in two equal installments.

The DRT directed that if Borrower failed to make the aforesaid deposits, the interim stay would stand vacated and the Respondent-Bank would be at liberty to confirm the sale in favor of the highest bidder.

The appellant deposited Rs.4,29,16,650/- towards the payment of the balance auction price on 28th December 2017.

Soon after Respondent-Bank confirmed the sale of the scheduled properties in favor of appellant and possession was delivered. In the meantime, the Borrower preferred M.A. No. 97 of 2020 in S.A. No. 1476 of 2017 before DRT, praying for its restoration and setting aside the aforesaid order of DRT. However, DRT passed an order thereby dismissing the said M.A. filed by the Borrower.

Judgment:

Hon'ble Apex Court relied on exceptions provided in the case of Commissioner of Income Tax and Others vs. Chhabil Dass Agarwal, (2014) 1 SCC 603 wherein it laid exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy.

Some of them are thus:

i. where the statutory authority has not acted in accordance with the provisions of the enactment in question;

ii. it has acted in defiance of the fundamental principles of judicial procedure;

iii. it has resorted to invoke the provisions which are repealed; and

iv. when an order has been passed in total violation of the principles of natural justice.

Undisputedly, the present case would not come under any of the exceptions as carved out by this Court in the case of Chhabil Dass Agarwal (supra).

Therefore, the High Court has grossly erred in entertaining and allowing the petition under Article 226 of the Constitution. It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under

which the action complained of has been taken itself contains a mechanism for redressal of grievance.

Court also relied on Satyawati Tondon case stating that since this Court have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy:

"55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Court continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."

February 15, 2024	**Association for Democratic Reforms & Anr. (Petitioners) Vs. Union of India & Ors. (Respondents),**	**Supreme Court of India**

Facts of the Case:

On 2 January 2018, the Ministry of Finance in the Department of Economic Affairs notified the Electoral Bond Scheme 2018. Under the 2018 Scheme, certain branches of the State Bank of India (SBI) were authorised to sell electoral bonds. Bonds can be purchased in denominations of ₹1,000, ₹10,000, ₹1,00,000, ₹10,00,000, and ₹ 1,00,00,000 from the SBI.

In September 2017 and January 2018, two Non-Governmental Organisations—Association for Democratic Reforms (ADR) and Common Cause — and the Communist Party of India (Marxist) filed petitions in the Supreme Court challenging the amendments made in the Representation of the People Act, 1951, the Reserve Bank of India Act, 1934, the Income Tax Act, 1961, and the Companies Act, 2013.

In early 2021, ADR approached the Court seeking a stay on the scheme, before the commencement of a fresh round of bond sales but on 26 March 2021 the Hon'ble court denied any stay on the scheme.

Petitioners argued that the Electoral Bonds Scheme increased corporate funding, black money circulation, and corruption. They argued that voters have a right to information about political parties' source of funding, as it informs the policies and views of that party.

Judgment:

Supreme Court inter alia observed that Article 19(1)(a) has been held to guarantee the right to information to citizens. The judgments of this Court on the right to information can be divided into two phases. In the first phase, this Court traced the right to information to the values of good governance, transparency and accountability. These judgments recognize that it is the role of citizens to hold the State accountable for its actions and inactions and they must possess information about State action for them to accomplish this role effectively.

The Apex Court in its conclusion & directions held that a. the Electoral Bond Scheme, the proviso to Section 29C(1) of the Representation of the People Act 1951 (as amended by Section 137 of Finance Act 2017), Section 182(3) of the Companies Act (as amended by Section 154 of the Finance Act 2017), and Section 13A(b) (as amended by Section 11 of Finance Act 2017) are violative of Article 19(1)(a) and unconstitutional; and b. The deletion of the proviso to Section 182(1) of the Companies Act permitting unlimited corporate contributions to political parties is arbitrary and violative of Article 14.

The Court also directed that the sale of electoral bonds be stopped with immediate effect. SBI was directed to submit certain details of Electoral bonds purchased from April 12, 2019 to till the date of judgment.

Further, the Court ordered the Election Commission of India (ECI) to publish the information shared by SBI on its official website within one week from the receipt of the information by 13 March 2024.

September 11, 2023	**Religare Finvest Limited [Appellant(s)] vs. State of NCT of Delhi & Anr. [Respondent(s)]**	**Supreme Court of India**

Every scheme of amalgamation of bank aims at securing larger public interest and health of the banking industry.

Judgment:

Hon'ble Supreme Court reliance placed in the case of M/s. General Radio & Appliances Co. Ltd. vs. M.A. Khader (dead) by LR's (1986 (2) SCR 607), where in Supreme Court held that after the amalgamation of two companies, the transferor company ceases to have any entity, and the amalgamated company acquires a new status, and it is not possible to treat the two companies as partners or jointly liable in respect of their liabilities and assets.

Further, Apex Court observed that every scheme of amalgamation is statutory and sanctioned under the Banking Act. Such amalgamation is to ensure that the interests of the depositors, the creditors and others who had invested, or given credit to in the erstwhile bank, before its sickness, and that the general public are protected. It aims at securing larger public interest and health of the banking industry. Late intervention into the affairs of a bank can result in a "run" on it, resulting in serious loss of confidence in the intricately woven banking and financial system. If one sees this and the overall objective of the scheme, it is to ensure recovery of what are the bank's dues and ensuring protection of the creditors. Clause 3 (3) of the scheme, therefore, has to be considered from this backdrop. In this context, the express mention of directors and such other individuals in the proviso means that it is to that extent only that prosecutions or other criminal proceedings can continue; in the ordinary sense, criminal liability can neither be attributed to DBS nor its directors, brought in after the amalgamation, whose appointments were approved by the RBI.

May 16, 2023	**Y. Balaji (Appellant(S) vs. Karthik Desari & Anr. Etc., [Respondent(s)]**	**Supreme Court of India**

Acquisition of bribe money by a public servant qualifies as an act of money laundering, and illegal gratification represents proceeds of crime

Wherever there are allegations of corruption, there is acquisition of proceeds of crime which itself tantamount to money-laundering. Once an information relating to acquisition of huge amount of illegal gratification in matter of public employment has come into public domain, it is duty of ED to register an Information Report. This is because "acquisition" is an activity amounting to money-laundering and illegal gratification acquired by a public servant represents "proceeds of crime," generated through a criminal activity in respect of a scheduled offence.

FIRs allege that accused herein had committed offences included in Schedule by taking illegal gratification for providing appointment to several persons in Public Transport Corporation. In one case it is alleged that a sum of more than Rs.2 crores had been collected and in another case a sum of Rs.95 lakhs had been collected. It is this bribe money that constitutes 'proceeds of crime' within meaning of Section 2(1)(u). Argument that mere generation of proceeds of crime is not sufficient to constitute offence of money-laundering, is actually preposterous. If a person takes a bribe, he acquires proceeds of crime. So, activity

of “acquisition” takes place. Even if he does not retain it but “uses” it, he will be guilty of offence of money-laundering, since “use” is one of six activities mentioned in Section 3.

January 05, 2023	**Kotak Mahindra Bank Ltd. (Appellant) vs. Girnar Corrugators (P.) Ltd. (Respondents)**	**Supreme Court of India**

Recoveries under SARFAESI Act with respect to secured assets would prevail over recoveries under MSMED Act to recover amount under award/decree passed by Facilitation Council

Facts of the Case:

One Mission Vivacare advanced various credit facilities by the appellant bank – secured creditor. In order to secure the various credit facilities, Plot situated in SEZ Area of Dhar were mortgaged along with certain movable fixed assets. On account of default in payment of loan / debt, the bank-initiated recovery proceedings in respect of the secured assets contemplated under Section 13(2) of the SARFAESI Act. The bank – secured creditor filed an application before the District Magistrate on 17.06.2014 under Section 14 of the SARFAESI Act seeking assistance from taking possession of the secured assets. By order dated 24.09.2014, the District Magistrate allowed the said application by directing the SDM, District: Dhar to take vacant possession of the secured assets. However, no action was taken and therefore, the bank submitted applications to the District Magistrate and the SDM complaining non-compliance of the order to take possession of the secured assets. Finally, SDM issued direction to the Naib Tehsildar to comply the order of the District Magistrate and obtain the possession by taking police assistance. Thereafter, Naib Tehsildar refused to take possession and to comply the order on the ground that one recovery proceeding is pending for recovery of certain amounts from the secured assets and on the ground that the recovery certificate issued in favour of respondent No.1 was already pending for recovery of certain amounts from the aforesaid two secured assets. At this stage, it is required to be noted that the recovery certificates were issued in favour of respondent No.1 pursuant to the award passed by the Facilitation Council on 11.09.2014 which was in favour of respondent No.1 herein, which was under provisions of MSMED Act. The order passed by the Naib Tehsildar refusing to take possession of the secured assets pursuant to the order passed by the District Magistrate was the subject matter of writ petition before the learned Single Judge of the High Court by way of Writ Petition. While refusing to take possession of the secured assets pursuant to the order passed by the District Magistrate under Section 14 of the SARFAESI Act, Naib Tehsildar observed that MSMED Act being a special enactment enacted subsequent to SARFAESI Act would have overriding effect and therefore, MSMED Act would prevail over the SARFAESI Act.

Judgment:

SARFAESI Act has been enacted to regulate securitization and reconstruction of financial assets and enforcement of security interest and to provide for a central debts of security interest created on property rights, and for matters connected therewith or incidental thereto. Therefore, SARFAESI Act has been enacted providing specific mechanism / provision for financial assets and security interest. It is a special legislation for enforcement of security interest which is created in favour of secured creditor – financial institution. MSMED Act does not provide any priority over debt dues of secured creditor akin to section 26E of SARFAESI Act. At the most, decree / order / award passed by Facilitation Council shall be executed as such and micro or small enterprise in whose favour award or decree has been passed by Facilitation Council shall be entitled to execute same like other debts / creditors.

November 25, 2022	**Rana Kapoor (Applicant) vs. Directorate of Enforcement (Respondent)**	**High Court of Delhi**

Bail conditions in section 45 of PMLA would not apply where accused was not arrested during investigation or post filing of charge sheet

Facts of the Case:

FIR was registered by CBI under Sections 120B, 406, 420, 468, and 471 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") on basis of a complaint received from the Chief Vigilance Officer of Yes Bank. Respondent also filed another case under Sections 44 and 45 of PMLA which is pending. In the complaint, it was alleged that Applicant Rana Kapoor granted various credit facilities without following the bank procedure which resulted in huge amounts of losses to Yes Bank. It was alleged that a loss to the tune of Rs.

466.51 crore has been caused to Yes Bank by committing various offences like cheating, forgery, and criminal misappropriation from 2017 to 2019. The Applicant, however, was neither named as an accused in the FIR lodged by CBI nor was, he arrested during the investigation. The Applicant was summoned by the Learned Trial Court after taking cognizance of the case and at that time he was in judicial custody for some other case. The Application has been filed to seek Bail.

Judgment:

Hon'ble High Court of Delhi observed that there was no force in argument advanced by the learned Special Counsel for the respondent (ED) that the applicant before grant of bail required to pass test of 45 of PMLA. Section 45 provides that offences punishable under PMLA are cognizable and non-bailable also provides stringent conditions in grant of bail. The position would have been different had the applicant been arrested during the investigation. The investigating agency consciously preferred not to arrest the applicant during the investigation or post-filing of the charge sheet. Hon'ble High Court of Delhi allowed the present bail application on furnishing a personal bond in the sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with one surety of the like amount to the satisfaction of the concerned trial court on certain conditions.

November 04, 2022	**State Bank of India (Appellant) vs. Arvindra Electronics Pvt. Ltd. (Respondent)**	**Supreme Court of India**

HC can't invoke writ jurisdiction to extend the time period under the One Time Settlement (OTS) scheme

Fact of the Case:

In the instant case, an appeal was filed by the appellant against the order passed by the High Court of Punjab and Haryana under Article 226 of the Constitution of India to the original writ petitioner to make the payment of the balance amount (Rs. 2.02 crores with interest) as per the sanctioned letter of OTS dated 21.09.2017.

The appellant had sanctioned a cash credit in favour of the respondent. Later, the account of the borrower

was classified as NPA in 2015. The Bank came out with one-time settlement (hereinafter referred to as 'OTS Scheme') dated 01.09.2017. The Bank sent an OTS offer to the borrower for OTS and the ledger outstanding as of 31.03.2017. The borrower accepted the OTS offer and deposited an amount of Rs.1.40 crores with the Bank on 31.10.2017. In the sanctioned letter dated 21-11-2017 it was specifically mentioned in Clause (iv) that the entire payment under the OTS Scheme was to be made by 21-5-2018. Otherwise, OTS would be rendered infructuous. Therefore, borrowers were bound to make the payment as per the sanctioned OTS Scheme.

Later, the Bank arbitrarily and without just cause or explanation rejected the respondent's request for extension while extending the benefit of extension of OTS to other borrowers the Bank arbitrarily and without just cause or explanation rejected the respondent's request for extension while extending the benefit of extension of OTS to other borrowers. It was submitted by the learned Advocate appearing on behalf of the respondent that the High Court has rightly observed that the decision of this Hon'ble Court in an earlier judgement was distinguishable since it deals with the issue of grant of OTS and not an extension of time once OTS has already been granted and acted upon by the parties.

Further, it was submitted by the learned counsel appearing on behalf of the Bank that the Hon'ble High Court, under Article 226 of the Constitution of India, cannot direct reschedule the payment under the OTS as it amounts to modification of the contract, which can be done by mutual consent under Section 62 of the Indian Contract Act.

Judgment:

Hon'ble High Court believed that directing the Bank to reschedule the payment under OTS would be tantamount to modification of the contract, which can be done by mutual consent under Section 62 of the Indian Contract Act.

High Court held that by the impugned judgment and order rescheduling the payment under the OTS Scheme and granting an extension of time would be tantamount to rewriting the contract, which is not permissible while exercising the powers under Article 226 of the Constitution of India.

August 24, 2022	**Union of India and Another (Appellant) vs. Citi Bank, N. A. (Respondent)**	**Supreme Court of India**

Show Cause Notice (SCN) cannot be issued after expiry of period to maintain records.

Facts of the Case:

The respondent-Bank had accepted cash in foreign currency, equivalent to Rs. 23,17,630/- during the period from October 1992 to January 1993 to the credit of NRE (Non-Resident External) Account of Umakant Bhardwaj, a Non-Resident Indian (NRI). For the said transaction, a Show-Cause Notice (SCN) came to be issued on 25th February 2002 by the appellants, alleging therein that the respondent-Bank had contravened the provisions of Sections 8(1), 64(2), 64(4), 64(5) and 73(3) of the Foreign Exchange Regulation Act (FERA). The said Show-Cause Notice was replied by the respondent-Bank on 30th October 2002. It was the contention of the respondent-Bank that the restriction to the effect that only an NRI Account Holder shall deposit foreign currency in his NRE account was added only with effect from 31st July 1995 vide a Circular issued by the Reserve Bank of India (RBI) of the same date. It was therefore submitted that the said Circular dated 31st July 1995 could not be given effect retrospectively.

Judgment:

As per Rule 2 and 3 of the Banking Companies (Period of Preservation of Records) Rules, 1985, every Banking Company shall preserve, in good order, its books, accounts and other documents, relating to a period of not less than five years or eight years respectively immediately preceding the current calendar year. Notwithstanding anything contained in rules 2 and 3, the Reserve Bank may, having regard to the factors specified in sub-section (1) of section 35-A, by an order in writing, direct any banking company to preserve any of the books, accounts or other documents mentioned in these rules, for a period longer than the period specified for their preservation, in the said rules. Undisputedly, no such order has been placed on record which required the respondents-Banks to preserve records concerning the transactions in question for a period longer than eight years.

As per Banking Companies (Period of Preservation of Records) Rules, 1985, banks are required to preserve the record for five years and eight years respectively depending on concerned rules. The Show Cause Notices (SCN) and the proceedings continued thereunder of the transactions which have taken place much prior to eight years would be unfair and unreasonable.

October 31, 2022	**Directorate of Enforcement [Appellant(s)] vs. Padmanabhan Kishore [Respondent(S)]**	**Supreme Court of India**

Bribe-giver can be proceeded against for offence of money laundering u/s 3 of the PMLA, 2002.

Facts of the Case:

One Andasu Ravinder, IRS, was working as Additional Commissioner of Income Tax, Chennai. On intelligence, the Central Bureau of Investigation (for brevity “the CBI”) checked a car that was parked in front of the premises of the said Andasu Ravinder’s house on 29.08.2011 and recovered a sum of Rs. 50,00,000/- in cash. It is alleged that Andasu Ravinder and one Uttam Chand Bohra were in that car at that time. During investigation, it came to light that the sum of Rs.50,00,000/- was handed over to the said Andasu Ravinder by one Padmanabhan Kishore, petitioner herein, whose income tax file was pending with Andasu Ravinder for clearance. Since Padmanabhan Kishore wanted certain benefits, he had allegedly paid the sum of Rs.50,00,000/- as bribe to Andasu Ravinder. In connection with this seizure, the CBI registered an FIR on 29.08.2011 and after completing the investigation, filed charge sheet before the Special Court for the CBI Cases, Chennai.

Judgment:

Supreme Court of India inter-alia observed that the definition of “proceeds of crime” in PML Act, inter alia, means any property derived or obtained by any person as a result of criminal activity relating to a scheduled offence. The offences punishable under Sections 7, 12 and 13 are scheduled offences, as is evident from paragraph 8 of Part-A of the Schedule to the PML Act. Any property thus derived as a result of criminal activity relating to offence mentioned in said paragraph 8 of Part-A of the Schedule would certainly be “proceeds of crime”. Section 3 states, inter alia, that whoever knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use shall be guilty of offence of money- laundering.

It is true that so long as the amount is in the hands of a bribe giver, and till it does not get impressed with the requisite intent and is actually handed over as a bribe, it would definitely be untainted money. If the money is handed over without such intent, it would be a mere entrustment. If it is thereafter appropriated by the public servant, the offence would be of misappropriation or species thereof but certainly not of bribe.

The crucial part therefore is the requisite intent to hand over the amount as bribe and normally such intent must necessarily be antecedent or prior to the moment the amount is handed over. Thus, the requisite intent would always be at the core before the amount is handed over. Such intent having been entertained well before the amount is actually handed over, the person concerned would certainly be involved in the process or activity connected with "proceeds of crime" including inter alia, the aspects of possession or acquisition thereof. By handing over money with the intent of giving bribe, such person will be assisting or will knowingly be a party to an activity connected with the proceeds of crime. Without such active participation on part of the person concerned, the money would not assume the character of being proceeds of crime. The relevant expressions from Section 3 of the PML Act are thus wide enough to cover the role played by such person.

Further, Supreme Court of India held that on a bare perusal of the complaint made by the Enforcement Directorate, it is quite clear that the respondent was prima facie involved in the activity connected with the proceeds of crime.

October 11, 2022	**Dashrathbhai Trikambhai Patel (Appellant) vs. Hitesh Mahendrabhai Patel (Respondents)**	**Supreme Court of India**

No offence under section 138 of the NI Act is committed, if cheque is presented for full amount without endorsing on it the part payment made by the borrower.

Facts of the Case:

On 10 April 2014, the appellant issued a statutory notice under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) to the first respondent-accused. It was alleged that the first respondent borrowed a sum of rupees twenty lakhs from the appellant on 16 January 2012 and to discharge the liability, issued a cheque dated 17 March 2014 bearing cheque No. 877828 for the said sum. It was further alleged that the cheque when presented on 2 April 2014 was dishonoured due to insufficient funds. The appellant issued the notice calling the first respondent to pay the legally enforceable debt of Rs. 20,00,000.

Judgment:

When a part- payment of the debt is made after the cheque was drawn but before the cheque is presented for encashment on due date, the part payment made must be endorsed on the cheque under Section 56 of the NI Act. The cheque cannot be presented for encashment without recording the part payment. If the unendorsed cheque is dishonoured on presentation, the offence under Section 138 of the NI Act would not be attracted since the cheque does not represent a legally enforceable debt at the time of encashment. Where cheque was issued as security for repayment of loan Rs.20 lakhs and cheque was presented for payment for full Rs.20 lakhs without endorsing on it the part payment of Rs. 4,09,315 made between the date the cheque was drawn and the date it was presented, the offence under section 138 of NI Act would not be attracted in respect of dishonour of the cheque.

March 27, 2023	**State Bank of India & Ors (Appellants)Vs. Rajesh Agarwal & Ors (Respondents)**	**Supreme Court of India**

Brief Facts

The civil appeals arise out of a challenge to the Reserve Bank of India (Frauds Classification and Reporting

by Commercial Banks and Select FIs) Directions 2016, issued by the Reserve Bank of India, these directions were challenged before different High Courts primarily on the ground that no opportunity of being heard is envisaged to borrowers before classifying their accounts as fraudulent. The High Court of Telangana has held in the impugned judgment that the principles of natural justice must be read into the provisions of the Master Directions on Frauds. The decision has been assailed by the RBI and lender banks through these civil appeals before the Hon'ble Supreme Court.

Judgement:

The Hon'ble Supreme Court held that the rule of audi alteram partem ought to be read in Clauses

8.9.4 and 8.9.5 of the Master Directions on Fraud. Consistent with the principles of natural justice, the lender banks should provide an opportunity to a borrower by furnishing a copy of the audit reports and allow the borrower a reasonable opportunity to submit a representation before classifying the account as fraud. A reasoned order has to be issued on the objections addressed by the borrower. On perusal of the facts, it is indubitable that the lender banks did not provide an opportunity of hearing to the borrowers before classifying their accounts as fraud. Therefore, the impugned decision to classify the borrower account as fraud is vitiated by the failure to observe the rule of audi alteram partem. In the present batch of appeals, this Court passed an ad- interim order restraining the lender banks from taking any precipitate action against the borrowers for the time being. In pursuance of our aforesaid reasoning, we hold that the decision by the lender banks to classify the borrower accounts as fraud, is violative of the principles of natural justice. The banks would be at liberty to take fresh steps in accordance with this decision.

May 08, 2024	**Mrs. Bhumikaben N. Modi & Ors. (Appellant(s)) Vs. Life Insurance Corporation of India (Respondent(s))**	**Supreme Court of India**

Facts of the Case:

Late Mr. Narendra Kantilal Modi sought insurance cover for his life with incidental benefit for Rs. 1,00,000. He sent in a proposal with a check dated 08.07.1996, coupled with a deposit of Rs. 3388. The cheque issued against the payment of the premium amount was encashed on 12.07.1996. On 14.07.1996, he died in an accident. The policy was issued on 15.07.1996 by the Life Insurance Corporation of India (LIC). LIC has rejected the claim and contended that there was no concluded contract at the time of Modi's death, challenging the formation of a binding agreement.

Judgement:

The Supreme Court ordered the LIC to reimburse the insured amount plus interest, expenses, and damages for mental anguish and harassment. This ruling emphasized the need to safeguard consumer rights and insurance firms' responsibilities when a proposal is accepted but the proposer passes away soon after.

April 18, 2024	**Govind Kumar Sharma (Appellants) vs. Bank of Baroda (Respondents)**	**Supreme Court of India**

Facts of the Case:

The firm-respondent, had taken a loan from the Bank of Baroda. However, as it went into default, the Bank

initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 20023. An open auction was conducted by the Recovery Officer and the appellants were the highest bidder. Their bid was accepted and they made good the deposits as per the terms of the auction. Accordingly, a sale certificate was issued in their favour on 30.03.2009. The bidders were the tenants of the borrower in the premises in question which had been put to auction. As such the status of the appellants changed from that of tenants to that of owners after the sale was confirmed and sale certificate was issued.

Judgement:

The auction sale was set aside by the Supreme Court of India. The status of the appellants as tenants shall stand restored leaving it open for the borrower. The auction/sale money held by the Bank has to be returned to the appellants with 12% compound interest calculated from the deposit date.

May 20, 2024	**Central Bank of India (Petitioner(s)) vs. Abhay Kumar Jain (Respondent(s))**	**National Consumer Disputes Redressal Commission New Delhi**

Facts of the Case:

Abhay Kumar Jain had held Locker No.82 with the Central Bank of India. The rent of the said locker was paid per annum regularly by the Mr. Jain. On 28.09.2015, some thieves had stolen the ornaments of the Locker. The value of the said ornaments was Rs.1,85,780/- and an FIR was lodged with Police. Mr. Jain filed the claim of loss of ornaments with the Central Bank of India. However, the claim was denied by the Bank on the ground of no negligence on its part. Mr. Jain filed a Complaint before the District Forum. The form has accepted the compliant of Mr. Jain and ordered to pay Rs.1,85,780/- to Mr. Jain. Later on Central Bank of India filed an Appeal in State Commission which was dismissed by the State Commission.

Judgement:

Central Bank of India was directed to pay the amount of Rs.1,00,000/- along with simple interest @ 9% p.a. from the date of filing of the Complaint before the District Forum, till realization to the Respondent/ Complainant, within a period of one month from the date of this order. In the event of delay, the simple interest applicable shall be @ 12% p.a. for such extended period. Bank has also directed to pay Rs.50,000/- as costs of litigation to Mr. Jain.

July 06, 2022	**M/S Mahalaxmi Textiles A Proprietorship Firm Thorugh Its Prorprietor Bhartiben Maheshbhai Chevli vs. Syndicate Bank (Respondent)**	**Gujarat High Court**

Facts of the Case:

Bhartiben Maheshbhai Chevli, as proprietor M/S Mahalaxmi Textiles has availed financial assistance from Syndicate bank. Propoerty was mortgaged by the borrower in the favour of bank as security for the financial assistance taken. Later on M/S Mahalaxmi Textiles failed to repay the financial assistance and resulting of that Syndicate Bank classified the account as Non Performing Asset (NPA). Bank was in the process to sell the mortgaged property and Mr. Shankar Ramkumar Mundra approached the Syndicate Bank to purchase the property for an amount of Rs. 2.50 crore. Bank gave No Objection in purchasing the property. Mr.

Shankar Ramkumar Mundra deposited entire amount of Rs. 2.50 crore in bank. But Bank declined to issue certificate for releasing the charge over the property and also did not hand over the original title documents of the property. Bank said that Ms. Shankar Ramkumar Mundra had given guarantee in another account known as M/s. Jay Ganesh Roadlines which is also NPA and the said liability is outstanding due to this Bank is not in a position to release the charge on the aforesaid property as per the banking norms for releasing the mortgaged property.

Judgement:

The Gujarat High Court has held that once the Bank agrees to sell a property mortgaged with it by a loan defaulter and a third party pays full consideration for purchase of said property after entering into a valid agreement with the Bank, the latter cannot turn back and refuse the title deed, no objection certificate/no due certificate.

April 10, 2024	**Mahakali Sujatha (Appellant) Vs. Future Generali India Life Insurance Company Ltd. & Anr. (Respondent)**	**Supreme Court of India**

Facts of the Case:

Late Sri Siriveri Venkateswarlu, father of Ms. Mahakali Sujatha, obtained two insurance policies from the Future Generali India Life Insurance Company Ltd. - one on 05.05.2009, for a sum of Rs. 4,50,000/-, and the other on 22.03.2010, for a sum of Rs. 4,80,000As per policy terms, in the event of death by accident, twice the sum assured was payable by the insurer. In the application form of the policy, the insured had been asked about the details of his existing life insurance policies with any other insurer, and the insured had answered the same in the negative. On 28.02.2011, Sri Siriveri Venkateswarlu unfortunately lost his life in a train accident, leaving behind Ms. Mahakali Sujatha alone as his legal heir as well as nominee for death benefits. Immediately thereafter, the complainant approached the Future Generali India Life Insurance Company Ltd. and informed about the death of her father and they advised the complainant to submit a claim form along with necessary documents which she did. However, by letter dated 31.12.2011, Ms. Mahakali Sujatha's claims were repudiated by Future Generali India Life Insurance Company Ltd. The claim was repudiated on the ground that the policy holder had suppressed material facts in his application form with respect to existing life insurance policies from other insurers. Being aggrieved by the repudiation of the claim, Ms. Mahakali Sujatha approached the concerned District Forum by way of a consumer complaint. The State Commission found no material evidence of suppressed information and ruled that non-disclosure of other policies did not constitute suppression of material facts, upholding the District Commission's decision. Future Generali India Life Insurance Company Limited then filed a revision petition with the National Consumer Disputes Redressal Commission (NCDRC), which agreed with the Future Generali India Life Insurance Company Limited. The NCDRC found that the insured-deceased had indeed withheld information about other insurance policies. The NCDRC relied on a Supreme Court judgment which upheld repudiation of claims for non-disclosure of existing policies. Consequently, the NCDRC allowed the insurer's revision petition and dismissed the consumer complaint. The complainant filed a Special Leave Petition against the NCDRC's judgment.

Judgement:

The Supreme Court, after considering the arguments and evidence presented by both parties, allowed the appeal filed by Mahakali Sujatha against the repudiation of the insurance claim by Future Generali India Life Insurance Company Limited. The Court found that the insurer failed to provide sufficient documentary evidence to prove that the insured-deceased had other insurance policies which were allegedly not

disclosed. Consequently, the repudiation of the claim was deemed unjustified. The Supreme Court set aside the NCDRC's decision and directed the Future Generali India Life Insurance Company Limited to pay the claim amounts under the two policies to the appellant, along with interest at the rate of 7% per annum from the date of filing the complaint until realization.

March 20, 2024	**Kozyflex Mattresses Pvt. Ltd. Appellant(S) vs. SBI General Insurance Co. Respondent(S)**	**Supreme Court of India**

Facts of the Case:

Kozyflex Mattresses Private Limited purchased a 'Standard Fire and Special Perils' insurance policy for the period commencing from 28th March, 2013 to 27th March, 2014 for a sum of Rs. 1.25 crores on the plant and machinery and a sum of Rs.30,00,000/- on stock from the insurer-respondent from SBI General Insurance which later on enhanced. A massive fire incident took place at Kozyflex's factory just after two weeks (13th/14th April, 2013) from the date of purchase of the fire policy. The next day (i.e. 15th April, 2013) Kozyflex intimated SBI General Insurance Company of the incident, and eventually submitted an insurance claim of Rs. 3.36 Crore (i.e. Rs.40.11 lacs for building, Rs.1.08 crore for plant and machinery and Rs.1.87 crore for stock). SBI General Insurance appointed investigators to independently assess and verify the claim. Basis the results of these assessments and verification, the investigators prepared a preliminary report and a final report. As per reports submitted by investigators and surveyors it was came to knowledge of insure that the purchase of machinery from M/s. Maheshwari Ribbons, Gudivada to the tune of Rs. 1.39 crore and stock from Jageswari Enterprises to the tune of Rs. 0.64 crore were merely on papers and money transactions which have been done with the intention to siphon money from the State Bank of Hyderabad and the National Small Scale Industries Corporation Ltd. and that there had been no actual sale/purchase of such machinery and stock. Relying on the Reports, the Claim was repudiated on the ground that it was fraudulent and exaggerated. Aggrieved by the repudiation of the Claim, Kozyflex filed a complaint before the National Consumer Disputes Redressal Commission, claiming deficiency in service by SBI Insurance. On dismissal of the Complaint by the National Commission, Kozyflex approached the Supreme Court in appeal seeking remand of the Complaint to the National Commission for reconsideration on merits after giving Kozyflex an opportunity to rebut the findings in the Reports. Kozyflex contended *inter alia* that despite clarifying all the queries by the SBI Insurance appointed investigators, Kozyflex was never provided with the Reports, which were produced directly before the National Commission. Hence, Kozyflex was never given a chance to rebut the findings in the Reports.

Judgement:

The Supreme Court in view of the facts and circumstances has granted permission to Kozyflex Mattresses Pvt. Ltd. to file a rebut the findings of the Reports before the National Commission and The National Commission also directed to reconsider and make a fresh decision on the complaint based on the given directions.

March 06, 2024	**Vethambal and Ors. (Appellants) Vs. The Oriental Insurance Company and Ors. (Respondents)**	**Supreme Court of India**

Facts of the Case:

Ravisankar, aged 52 years, met with an accident on 09.12.2012, while driving TVS Starcity which was insured with The Oriental Insurance Company. FIR on 10.12.2012 was registered at Police Station Kalakkaadu, District Tirunelveli. A claim was filed by the dependents of the deceased claiming compensation of ₹1,00,00,000/-. It was pleaded that the deceased was doing multiple activities. Besides being an agriculturist growing bananas, coconuts and paddy, he was also running a dairy farm and was a Government contractor. He was the sole bread earner of the family, who left behind his old mother, wife, daughter and son, who are the appellants before this Court.

The Tribunal, after considering the evidence led by the parties, opined that the income of the deceased was ₹50,000/- per month and total amount of compensation assessed by the Tribunal was ₹51,64,550/-5. Interest @8% per annum was also awarded. Aggrieved against the aforesaid award of the Tribunal, the Insurance Company preferred an appeal before the Madras High Court. Accepting the contentions raised by the Insurance Company, the Madras High Court reduced the income of the deceased Ravisankar from ₹50,000/- to ₹20,000/- per month. After adding 10% towards future prospects, application of 1/4th cut on account of personal expenses and after applying a multiplier of 11, the loss of income was assessed at ₹21,78,000/-. The interest awarded by the Tribunal was not disturbed.

Judgement:

The Supreme Court of India said that the assessment of compensation cannot be done with mathematical precision. The Motor Vehicles Act, 1988 also provides for assessment of just and fair compensation. In court's opinion the value of the labour being put in by the deceased in agriculture, it would be reasonable to assess his income at ₹35,000/- per month. Considering the age of deceased at the time of death as 52 years on the date of accident, the applicable multiplier would be 11 and The appellants found entitled to compensation of ₹38,81,500/- with interest @8% from the date of filing of the claim petition till realization.

July 23, 2024	**In the matter of Care Health Insurance Limited (CHIL)**	**Insurance Regulatory and Development Authority of India (IRDAI)**

Facts of the Case:

Insurance Regulatory and Development Authority of India (IRDAI) received an application in December, 2021 from Care Health Insurance Limited for permission to grant 22.7 million ESOPs to Dr. Rashmi Saluja, Non- Executive Chairperson of CHIL. In May 2022, IRDAI rejected the request, but the company issued the ESOPs to Dr. Rashmi Saluja in June 2022. In 2023, it came to the notice of IRDAI that CHIL has granted 2,27,11,327 ESOPs of which 75,69,685 ESSOPs were exercised by Dr. Rashmi Saluja. IRDAI asked CHIL to submit comments/clarifications for violation of Section 48A of the Insurance Act, 1938 and the reports available in public domain related to grant of ESOPs to Dr. Saluja.

Later in 2024, IRDAI served a Show Cause Notice (SCN) to Care Health, asking the latter why penal action should not be initiated against the insurer for issuing ESOPs to Dr. Saluja despite IRDAI's disapproval.

CHIL submitted response in this regard and representatives of CHIL got opportunity to present their case in person.

Judgement:

On July 23, 2024, following the hearing, IRDAI said Care Health Insurance Limited has violated Section 48A of the Insurance Act, 1938 and ignored IRDAI's restrictions imposed on insurers in terms of granting permission for appointing a common director. IRDAI has ordered Care Health Insurance Limited to buy back those shares from Dr. Saluja at the same price per share as the exercise price (that is, ₹45.32 per share) within 30 days from the date of the order.

July 15, 2024	**In the matter of M/s Aegon Life Insurance Company Ltd. (now known as Bandhan Life Insurance Ltd.)**	**Insurance Regulatory and Development Authority of India (IRDAI)**

Facts of the Case:

Insurance Regulatory and Development Authority of India (IRDAI) has issued Show Cause notice (SCN) on February 22, 2024 in connection with inspection conducted by the IRDAI from August 10 -14, 2020. The inspection report inter alia revealed certain violations of provisions of the Insurance Act, 1938, Regulations and Guidelines issue thereunder. As per inspection report Clause 3.4 AML Master Circular dated September 28, 2015related to Internal audit towards Anti Money Laundering and clause 3.1.13 of AML Master Circular dated September 28, 2015related to Suspicious Transaction Reports (STR) to Financial Intelligence Unit – India were violated.

Judgement:

The Authority has decided to conduct and an (external or internal) independent audit function to test AML/CFT system by the insurance company. The insurance company also directed to take immediate steps to address the issues pointed out in the audit to adhere to SML/CFT guidelines issued by the authority and also to file a certificate signed by the MD&CEO and CCO confirming the due adherence of AML Processes within stipulated time.

July 15, 2024	**In the matter of M/s Bajaj Finance Ltd. (Corporate Agent)**	**Insurance Regulatory and Development Authority of India (IRDAI)**

Facts of the Case:

Insurance Regulatory and Development Authority of India (IRDAI) has issued Show Cause notice (SCN) on March 14, 2024 in connection with inspection conducted by the IRDAI from March 3-5, 2021. The inspection report inter alia revealed certain violations of provisions of the Insurance Act, 1938, Regulations and Guidelines issue thereunder. As per inspection report, Regulation 31(3) & Regulation 23(g) of IRDAI (Registration of Corporate Agents) Regulation, 2015 were violated.

Judgement:

As per order of IRDAI, Bajaj Finance Ltd. has to remit the penalty of Rs. 2 crore within a period of 45 days from the date of receipt of the order.

July 23, 2024	Meenakshi (Appellant(S)) Vs. The Oriental Insurance Co. Ltd (Respondent(S))	Supreme Court of India

Motor Accident Claim | HRA, PF Contribution Should Be Included While Computing Loss Of Dependency

Facts of the Case:

Shri Suryakanth was 26 years old died in a road accident on 29th August, 2013. He was working as a service consultant and was drawing monthly gross salary of Rs. 56,935 per month. As per salary certificate of the deceased The monthly income was Rs. 50,942/-. The Accident Claims Tribunal, assessed and quantified the compensation on the basis of Annual gross salary drawn by the deceased after deducting the professional tax of Rs. 200 per month. The income of the deceased considered @ 50,742/- and annual income comes to Rs.6,08,904/-. As per tribunal deceased was also entitled for loss of future prospects at 50% of his income. Total of gross annual income and loss of future prospects was taken for calculations. Accordingly Rs.3,04,452/ was taken as annual income and total came Rs.6,08,904/- (3,04,452 + 3,04,452) per annum after adding the loss of future prospects.

The High Court, while considering the appeal preferred by the Insurance company, concluded that the Accident Claims Tribunal's approach while assessing the compensation under the head of 'loss of dependency' was erroneous on various grounds. The High Court took the basic salary of deceased for calculating the loss of income. The High Court in particular held that the components of house rent allowance, flexible benefit plan and contribution to provident fund etc. could not be accounted for the purpose of adding 50% to the gross income of the deceased on the principle of future prospects.

Judgement:

Recently in a judgment dated 11th July, 2024 in National Insurance Company Ltd. v. Nalini and Ors. the Supreme Court of India held that, allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor.

August 09, 2024	Rahul (Appellant) Vs. National Insurance Company Ltd. and another (Respondents)	Supreme Court of India

Facts of the Case:

The appellant filed a claim petition before the Tribunal seeking a compensation of Rs.20,00,000/- for the injuries sustained by him in a motor accident that had occurred on 27.01.2013, while he was travelling as a pillion rider in the motor cycle which was insured with the National Insurance Company Ltd. The doctor who treated appellant gave disability certificate to the effect that the appellant suffered 50% disability, as a whole. The Tribunal awarded a sum of Rs.5,38,872/- along with interest at 6% p.a. from the date of petition till deposit, as compensation payable to the appellant, after taking into account the disability sustained by him at 25%. Aggrieved by the same, the insurance company filed an appeal before the High Court. After hearing both sides, the High Court re-assessed the compensation by reducing it to Rs.4,74,072/- by

taking into consideration, disability only at 20% and allowed the appeal in part, by the final judgment dated 13.11.2018.

Judgement:

The only issue that arises for Supreme Court's consideration was, whether the High Court was right in reducing the percentage of disability suffered by the appellant from 25% as fixed by the Tribunal, to 20% while determining the compensation payable to him. The Tribunal took the disability of the appellant only at 25% and determined the compensation payable to him. Without assigning plausible reason, the High Court re-assessed the compensation by reducing the disability suffered by the appellant to 20%. The Supreme Court, viewed that the reduction of compensation was not required, particularly, when there was no basis in support thereof. Therefore, the judgment passed by the High Court is liable to be interfered with. Accordingly, the impugned judgment dated 13.11.2018 passed by the High Court was set aside and the judgment dated 28.06.2014 passed by the Tribunal fixing the disability of the appellant at 25% was restored. The insurance company was directed to deposit the entire compensation along with interest as determined by the Tribunal, after adjusting the amounts already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment.

August 01, 2024	**M/S. Pro Knits (Appellant) Vs. The Board of Directors of Canara Bank (Respondent)**	**Supreme Court of India**

Facts of the Case:

The Appellants in the appeal claimed themselves to be the Micro, Small and Medium Enterprises (MSMEs) registered under the Micro, Small and Medium Enterprises Development Act, 2006 and challenged the impugned common order passed by the Bombay High Court. The Bombay High Court has dismissed the Writ Petitions by holding that the Banks/Non-Banking Financial Companies (NBFCs) are not obliged to adopt the restructuring process as contemplated in the Notification dated 29th May, 2015 issued by the Ministry of Micro, Small and Medium Enterprises, on its own without there being any application by the Petitioners/ MSMEs. The Appellants who were the Writ Petitioners before the High Court had basically challenged the actions of the Respondents Banks/ NBFCs taken by them against the appellants under the provisions contained in The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The bone of contention raised in the appeal was that the Banks could not have classified the loan accounts of the appellants who were the MSMEs, as Non-Performing Assets (NPA), without following the procedure laid down in the Instructions for Framework for Revival and Rehabilitation of MSMEs issued vide the Notification dated 29th May, 2015 by the Ministry of MSME, in exercise of the powers conferred under Section 9 of the MSMED Act.

Judgement:

The Supreme Court opinioned that the findings recorded by the High Court in the impugned order that the Banks are not obliged to adopt the restructuring process on its own or that the Framework contained in the Notification dated 29.05.2015, as revised from time to time could not be said to be mandatory in nature, are highly erroneous and cannot be countenanced. The impugned order passed by the High Court was set aside by the Supreme Court. Since, the High Court has not dealt with the other issues based on the factual aspects of the writ petitions, Supreme Court clarified that it would be open for appellants to take recourse to any remedy as may be legally available to them for agitating the issues not decided by the High Court in the impugned order.