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JUSTICE DELIVERY SYSTEM

Having discussed the origin and development of Indian Judicial System and also the hierarchy of Civil and Criminal Courts functioning in Modern India, it would be in the fitness of things to give an account of Civil Matters and Criminal Matter – their kinds and also the different stages through which a Civil and Criminal Matter passes in a Court of Law.

Besides regular Civil and Criminal Courts, there are many other ways to settle a disputes. ‘Tribunals’ defined as adjudicatory bodies other than courts, help in reducing the burden of courts by deciding disputes of special or technical nature requiring special knowledge. So, dispute resolution through Tribunals is also part of the dispute resolving mechanism in modern India. Tribunals are basically constituted to deal with a particular specialized branch of Law.

While making a comparison between regular Courts and Tribunals and their functioning, it can be said that Courts (Civil and Criminal both) follow a strict procedure of law, whereas Tribunals adopt a relaxed approach to the technical rules of law. The chairman and other members who are experts in the relevant field decide the matter. Some of the Tribunals functioning in India are – Central Administrative Tribunal (CAT), Income Tax Tribunal and Industrial Tribunal. There are also Tribunals constituted and working at State level.



OBJECTIVES

After studying the lesson you will be able to:

- describe the term ‘Civil Matter’;
- understand the meaning of the term ‘Criminal Matter’ or ‘criminal dispute’;
- identify the various stages of ‘Civil Matter’ or Civil Suit;
- know the various stages of ‘Criminal Matter’ or a ‘criminal dispute’;
- define a ‘Tribunal’ and discuss its functioning; and
- understand the difference between a regular Court and a Tribunal.



Notes

14.1 CIVIL AND CRIMINAL MATTERS OR DISPUTES

Generally speaking disputes are of two kinds – Civil and Criminal. A Civil matter is a legal matter that arises under Civil Law. In Civil matters or disputes, parties are found asserting or disputing claims over rights such as property right e.g. ownership right, partition of property, contractual rights etc. Some examples of Civil matters are money recovery matters, property matters, injunction matters, negligence etc. Civil matters deal with private wrong (private wrong in simple legal terminology means dispute between parties only), whereas criminal matters deal with public wrongs.

A criminal matter is a legal matter that arises under Criminal Law. Criminal offence i.e. hurt, injury, murder etc. even though committed by one party upon the other party, is considered to be a ‘public wrong’. Public wrong is violation of public rights and duties that affect the entire community. Being a wrong against the whole community, Government of the State files a case against the guilty person. In certain cases criminal proceedings are initiated on a complaint from individual (other than State).

There are certain offences such as negligence, false imprisonment, trespass to land (intrusion upon another person’s land), assault (physical attack) etc. which are treated as ‘civil wrong’ and dealt with under law of Torts, another branch of Law.



Figure 14.1: Justice Delivery System in India, Supreme Court



INTEXT QUESTIONS 14.1

Write True or False

1. A Civil Matter is a legal matter that arises under Civil Law. (True/False)
2. A Criminal Matter is a legal matter that arises under Criminal Law.
(True/False)
3. There are certain offences such as negligence, false imprisonment, trespass etc. which are treated as civil wrong and are dealt with under Law of Torts.
(True/False)

14.2 CIVIL MATTERS – DIFFERENT STAGES

In civil matters the party which files the case is known as ‘plaintiff’ and the party against whom the case is filed is known as ‘defendant’. In legal terminology, civil case is known as suit. Civil suit or case passes through following stages:

1. **Filing of plaint** (‘plaint’ is a legal term for the case filed by the plaintiff) - First stage of the civil matter is filing of the plaint. Case/plaint prepared by the advocate is filed in the appropriate Court of law.
2. **Issuing summons to the opposite party** - Once a case is filed then summons i.e. intimation of the filing of that case is sent by the Court to the other party.
3. **Appearance of defendant** – On receiving summons defendant enters appearance and files its response to the case filed by the plaintiff. The response filed by the defendant is known as Written Statement. Plaintiff can file a replication (reply) to the written statement filed by the defendant.
4. **Framing of issues** – After filing of plaint, written statement and replication, Court frames issues i.e point of disputes raised in the matter.
5. **Recording of evidence** – Thereafter, evidence on behalf of the parties are filed. By way of evidence, parties try to prove their case and disprove other party’s case. Generally plaintiff’s evidence takes place first and thereafter evidence on behalf of defendant is lead.
6. **Arguments** – After completion of recording of evidence, arguments are advanced on behalf of the disputing parties.
7. **Judgment** – After hearing arguments and appreciating evidence filed by the parties, Judge delivers judgement in the case and the matter gets decided in favour of either party. The Dissatisfied party has the right to approach the higher Court by way of appeal or any other remedy.

**ACTIVITY 14.1**

Visit a civil court of a your district, observe its functioning/working and try to make a list of civil suits lying pending in this court.

**INTEXT QUESTIONS 14.2**

1. **Fill in the Blanks:**
 - (a) In civil matters the party which files the case is known as
 - (b) In civil matters the party against whom the case is filed is known as
 - (c) In legal terminology, civil case is known as
2. List the different stages through which a civil suit passes in Civil Court.

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14.3 CRIMINAL MATTERS – DIFFERENT STAGES

In criminal matters, State initiates legal proceedings on behalf of the victim against the offender. Criminal matters deal with commission of an offence. Offence is a public wrong or crime. Some examples of offence are causing physical hurt or injury, theft, robbery, murder, kidnapping etc. Person who commits the offence is known as accused.

Different stages through which criminal trial passes are mentioned below:

1. **FIR Registration** – FIR stands for first information report. It is intimation to the police authorities that a particular offence has been committed against victim. Lodging of FIR in the Police Station is the first step towards initiation of a criminal case. It is only after the registration of the FIR that a police officer can investigate the case.
2. **Investigation** – After FIR has been lodged, investigation of the matter would be conducted by Police authorities to find out whether in reality any offence has been committed or not and if so who has committed the offence. Collection of evidence in criminal matter is the task of the investigating agency. Collection of evidence includes recording statement of witnesses, seizure of documents and seizure of case property involved in the commission of the offence. If on investigation any offence is found to have been committed then Chargesheet is filed in the matter and matter goes for trial otherwise matter gets closed and a closure report is filed.
3. **Filing of Chargesheet** – Chargesheet is a kind of report explaining how an offence had been committed, by whom it was committed and under which provision of law is it covered. On filing of chargesheet, if the Court is satisfied that an offence has been committed the court takes cognizance and issue summons for appearance of the accused.
4. **Framing of Charges** – Court looks into the matter and evidence collected by the investigating agency to see what offence has been committed by the accused and under which provision of law should he be charged like whether accused has committed theft, robbery or any other offence. Judge on the basis of evidence collected by the investigating agency may come to the conclusion that no offence has been committed by the accused, in that case accused would be discharged of that offence i.e he/she would be declared as having committed no offence.
5. **Prosecution Evidence** – After framing of charges, prosecution is required to produce entire evidence collected by investigating agency along with statement of prosecution witness. Witness is a person who gives statement in favour of a party who brings him/her for proving its case.
6. **Statement of Accused** – Thereafter, Court asks for an explanation from the accused regarding the accusations made against him/her. Accused is given an opportunity to explain.

7. **Defense Evidence** – After recording of statement of accused if Court finds that no offence is committed by the accused, then he/she is acquitted i.e., held to have committed no offence. But if court has any doubt regarding commission of offence then it calls for defense evidence to disprove prosecution case. Accused then produce witness on his/her behalf to prove his/her innocence in the matter.
8. **Arguments** – After completion of recording of evidence arguments are advanced from both the sides, of a dispute.
9. **Judgment** – Thereafter, judgment (judgment means decision of the Court) either convicting i.e. holding accused guilty of having committed an offence or acquitting is given.
10. **Argument and Judgment on Sentence** – If accused is convicted for an offence, then prosecution as well as defense side addresses arguments on what punishment should be given to the accused out of the maximum punishment given for the offence under law.
11. **Judgment on Sentence** – After hearing arguments on sentence, Court pronounces its decision on the quantum of punishment to be given to the accused. Age, background, past criminal history of accused etc. are also determinative factors in awarding punishment to accused.
12. **Appeal** – Prosecution or defense as the case may be, can approach the higher Court if they remain dissatisfied by the decision of the lower Court, by filing an ‘Appeal’.



INTEXT QUESTIONS 14.3

1. Define the following Terms:
 - (a) FIR
 - (b) Arguments
 - (c) Judgement
 - (d) Appeal.
2. **Write True or False**
 - (a) In criminal matters, State initiates legal proceedings on behalf of the victim against the offender. (True/False)
 - (b) Offence is a ‘public wrong’ or ‘crime’. (True/False)

14.4 DISPUTE RESOLUTION THROUGH TRIBUNALS

There are many ways to settle a dispute and it is not necessary to be standing in front of a formal Court for seeking justice. Tribunals can be defined as



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**Notes**

adjudicatory bodies other than courts with administrative or judicial functions. There are various Tribunals constituted under different law for resolving disputes among parties such as 'Industrial Tribunal' to resolve industrial disputes, 'Administrative Tribunal' for resolving disputes concerning Government, 'Income Tax Tribunal' for resolving income tax related disputes etc. These Tribunals are less expensive and less formal than courts and resolution of disputes takes place in a much more relaxed manner. Tribunals are basically constituted to deal with a particular specialized branch of law. In Tribunals, dispute is decided by Tribunal Members having special knowledge of the matter. Tribunals also help in reducing burden of Courts by deciding disputes of special or technical nature requiring special knowledge.

**INTEXT QUESTIONS 14.4**

1. Define 'Tribunal'
2. **Fill in the Blanks**
 - (a) The Tribunal resolving Industrial disputes is known as
 - (b) The Tribunal resolving Income Tax disputes is known as
3. **Write True or False**
 - (a) In Tribunals, dispute is decided by Tribunal members having special knowledge of the matter (True/False)
 - (b) Tribunals are basically constituted to deal with a particular specialised branch of Law (True/False)
 - (c) Tribunals help in reducing burden of courts by deciding disputes of special or technical nature requiring special knowledge. (True/False)

14.5 COMPARISON BETWEEN COURTS AND TRIBUNALS

Courts follow strict procedure of law whereas Tribunals adopt a relaxed approach to the technical rules of law.

In Courts, people rarely get a chance to speak and most of the talking is done by lawyers. On the other hand, Tribunals encourage people to stand up and speak and lawyers have little role to play in the settlement of disputes.

Courts have the power to decide variety of cases whereas Tribunals specialize in a particular area of law.

Litigation in Courts is very costly as one has to pay various kinds of fees apart from the fees of Advocates. On the other hand Justice delivered by tribunals prove to be cheaper and quicker.

The proceedings of a Court are presided over by a Judge or a Magistrate. On the other hand in Tribunals, a Chairman and other Members who are experts in the relevant field decide the matter.

Tribunals have lesser powers as compared to a regular Court. For example, a Tribunal cannot order imprisonment of a person which is common for a Regular Court.

An Advocate is necessary in case of Courts whereas they are rarely needed in case of Tribunals.

**Notes****INTEXT QUESTIONS 14.5****Write True or False**

- (a) Courts have the power to decide variety of cases, whereas Tribunals specialise in a particular area of Law. (True/False)
- (b) Courts follow strict procedure of Law whereas Tribunals adopt a relaxed approach to the technical rules of Law. (True/False)
- (c) Tribunals have lesser powers than a Regular Court. (True/False)
- (d) Litigation in Courts is very costly, whereas justice delivered by Tribunals prove to be speedy and less expensive. (True/False)

**WHAT YOU HAVE LEARNT**

Disputes are generally of two kinds — Civil and Criminal. A Civil Matter or dispute is a legal matter that arises under Civil Law. Criminal Law deals with criminal offences i.e. murder injury, hart, theft, robbery, Kidnapping etc.

The different stages of Civil Matters or disputes are — Filing of plaint, issuing summons to the opposite party, appearance of defendant, framing of issues, recording of evidence, arguments on behalf of parties and delivery of judgement by the Court.

Different stages through which Criminal Matter passes are — Lodging of FIR, investigation conducted by police, filing of chargesheet, Framing of charges, prosecution evidence, statement of the accused, arguments advanced by both the disputing parties, judgement or decision of the Court, arguments on punishment and appeal against the decision of lower court.

Tribunals can be defined as adjudicatory bodies other than courts having administrative or Judicial functions. There are various Tribunals constituted under different law for resolving disputes among parties such as Industrial

**Notes**

Tribunal to resolve industrial disputes, Administrative Tribunal for resolving disputes concerning government, Income Tax Tribunal for resolving income tax related disputes.

While making a comparison between Courts and the Tribunals it can be said that Courts follow strict procedure of Law, whereas Tribunals adopt a relaxed approach to the technical rules of Law. Again, Courts have the power to decide variety of cases, Tribunals specialise in a particular area of Law. Proceedings of a Court are presided over by a Judge or a Magistrate. On the other hand in Tribunals, a Chairman and other Members who are experts in the relevant field decide the matter.

**TERMINAL QUESTIONS**

1. Define 'Civil Matters'.
2. Define 'Criminal Matters'.
3. Discuss the different stages through which Criminal Matters passes in a court of Law.
4. Describe the different stages through Civil Matters passes in a court of Law.
5. Define a 'Tribunal'.
6. Make a comparison between Courts and Tribunals.

**ANSWER TO INTEXT QUESTIONS****14.1**

1. True
2. True
3. True

14.2

1. (a) Plaintiff
(b) Defendant
(c) Civil Suit
2. (i) Filing of Complaint
(ii) Issuing Summons to the opposite party
(iii) Appearance of Defendant

- (iv) Framing of issues
- (v) Recording of Evidence
- (vi) Arguments
- (vii) Judgement

14.3

1. (a) **FIR** — FIR stands for first information report. It is intimation to the police authorities that a particular offence has been committed against victim. Lodging of FIR in the Police Station is the first step towards initiation of a criminal case.
(b) **Arguments** — After Completion of recording of evidence arguments are advanced from both sides of a dispute.
(c) **Judgement** — Judgement means decision of the Court.
(d) **Appeal** — Prosecution or defence as the case may be, can approach the higher court if they remain dissatisfied by the decision of the lower Court.
2. (a) True
(b) True

14.4

1. Tribunals can be defined as adjudicatory bodies other than Courts, and performing administrative or Judicial functions.
2. (a) Industrial Tribunal
(b) Income Tax Tribunal
3. (a) True
(b) True
(c) True.

14.5

- (a) True
- (b) True
- (c) True
- (d) True

MODULE - 4

Indian Court System and
Methods of Resolution
Disputes



Notes