



# INDIAN LAW REPORTS (Kerala Series)

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- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—Section 11 (9)—*The applicability of Section 107 of the Transfer of Property Act is not abrogated by the provisions of the Rent Control Act— A lease exceeding a period of-1 year can be made only by a registered instrument—Transfer of Property Act, 1882 (Central Act 4 of 1882)— Section 107— Registration Act, 1908 (Central Act 16 of 1908)— Sections 17 and 49.*  
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- Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)**—Section 15—*First petition for eviction filed on the ground of bona fide need ended in the finding that there is no bona fide need—While dismissing the Rent Control Revision in limine, the High Court granted permission to the landlord to file fresh petition for eviction on the ground of bona fide need—Second petition for eviction filed on the same ground of bona fide need—Second petition for eviction is barred by principles of res judicata and by Section 15—High Court could not have granted leave to file fresh petition for eviction when it confirmed finding of the Appellate Authority that there is no bona fide need.*  
Ayanikkattu Unniraja v. Gurudas, K. P. I.L.R. 2014 (1) Kerala . . . 638
- Building Tax Act, 1975 (Kerala Act 7 of 1975)**—Sections 1(3), 2(a), 3, 5 and 5A—*The liability to pay tax under the Act either by way of building tax or luxury tax, would have no application to a building, the construction of which was completed before 10-2-1992.*  
Sacred Heart Convent v. State of Kerala I.L.R. 2014 (1) Kerala . . . 104

- Cardamom Rules (Travancore), 1935—Rule 4, 6, 7, 8 and 10—***The assignment of land under Cardamom Rules (Travancore), 1935 can be treated as confirmed or as a concluded contract for assignment, only on the Government passing a preliminary order and on payment of the 1st installment in terms of Rule 10—The fact that certain steps were taken for assignment of land before the repealing of Cardamom Rules (Travancore), 1935 would not give the applicant the right to assignment after the repealing of Cardamom Rules (Travancore), 1935 by virtue of Section 9(3) of the Kerala Land Assignment Act, 1960 (Kerala Act 30 of 1960)—Section 9(3)—Kerala Interpretation and General Clauses Act, 1125 (M.E.)—Section 4.*  
Vincy Cherian Cherian v. State of Kerala I.L.R. 2014 (1) Kerala . . . 9
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order VII, Rule 3—***In a suit for recovery of possession on determination of the lease, the lessor must have a definite case as regards the identity of the leased property— The plaint should contain a description of the property sufficient to identify it—When the leased property is properly described, the lessee cannot dispute the identity of the leased property.*  
Poddar Plantations Limited v. Thekkemariyeetil Madhavi Amma I.L.R. 2014 (1) Kerala . . . 813
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XXIII, Rule 3—***Compromise decree—There is no rule that a compromise decree should be an executable one or that it could not be one dismissing the suit— A decree taking cognisance of the compromise is also a decree.*  
Balan Nambiar, M.K.V. v. Sankara Kurup, T. I.L.R. 2014 (1) Kerala . . . 342
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XXXIX, Rule 1—***While considering an application for temporary prohibitory injunction, the court cannot enter into conclusive findings on questions arising out of disputes between parties—The Court is only required to determine whether a prima facie case has been made out or not, for the grant of the discretionary relief applied for.*  
Oorazhma Devaswom Board v. Brahmadathan Namboothiri I.L.R. 2014 (1) Kerala . . . 592
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XXXIX, Rule 1—***The relief of a prohibitory order of injunction cannot be granted to a plaintiff who has already been dispossessed before initiation of the lis— The plaintiff, on making out a case, has to move the Court for interim mandatory injunction in cases where he has already been dispossessed,*  
Oorazhma Devaswom Board v. Brahmadathan Namboothiri I.L.R. 2014 (1) Kerala . . . 592
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XL—***Appointment of receiver— Appointment of receiver is co-terminus with the proceeding in which the appointment was made, except in exceptional circumstances.*  
Thomas, N. C. v. Biji A. Kuruvila I.L.R. 2014 (1) Kerala . . . 705
- Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XLIII, Rule 1(u)—***Order passed on an application under Order 39, Rule 2A cannot be said to be a proceeding for determination of a claim or a right—Since the order passed by the Appellate Court,*

*remanding the application under Order 39, Rule 2A, is only an order and not a decree, no first appeal would lie from the decision of the Appellate Court.*

Chalakudy N.S.S. Educational, Cultural and Charitable Society v. Narayana Menon, E.  
I.L.R. 2014 (1) Kerala . . . 778

**Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Order XLVII, Rule 1—***If the Tribunal did not consider and decide the challenge by the insurer over the breach of policy condition, the remedy of the insurer is to file an appeal against the award and not a review—A finding in the award with regard to breach of policy condition cannot be corrected in review.*

Santhosh, M. V. v. Binu, P. C. I.L.R. 2014 (1) Kerala . . . 806

**Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Section 64—***Attachment effected subsequent to the creation of the equitable mortgage does not affect the title and ownership of the purchaser, who purchases the mortgaged property when such property is put to sale.*

Madhan, S. v. Sub Registrar, Kollam I.L.R. 2014 (1) Kerala . . . 586

**Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 57, 167 and 267—***In the absence of physical production of the accused, who is in judicial custody in connection with another crime, before the Magistrate having seisen over the crime in which the formal arrest was recorded by the investigating officer, the officer does not get custody of the accused and therefore the mandatory prescription over production of the accused stipulated under Section 57 Cr. P.C. and Article 22(2) of the Constitution of India are inapplicable—Constitution of India—Article 22(2).*

Ashish Arora v. State of Kerala I.L.R. 2014 (1) Kerala . . . 113

**Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 125(3)—***Default in payment of maintenance—Despite execution of the warrant issued on the application that is to be filed within 12 months of the maintenance amount becoming due, if the amount is not paid, law contemplates a breach for non-payment of each months maintenance allowance and for such breach, the defaulter is to be imprisoned—A person who has defaulted in payment of maintenance for a long period can be sentenced to imprisonment for the period for which the default is committed, subject to a maximum of 12 months imprisonment—Principle laid down in I.L.R. 2006 (3) Kerala 516 approved.*

Santhosh v. State of Kerala I.L.R. 2014 (1) Kerala . . . 305

**Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 154—***Delay of less than 4 hours in registering the FIR by the police, on account of lack of knowledge of the reason for the fall of the deceased from the train and lack of knowledge of the identity of the deceased, cannot be stated to be inordinate—Indian Penal Code, 1860 (Central Act 45 of 1860)—Sections 376 and 302.*

State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141

**Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 167(2)—***Conditions imposed by the court while releasing an accused on bail should not be of such a nature that the condition cannot be complied with—The direction of the court requiring the title deeds of the properties produced by the sureties to be retained in court till the Section 313 examination of the accused is over, is not proper—The condition requiring the sureties to produce solvency certificate for an amount equivalent to 1% of the amount involved in the crime is not sustainable in law.*

Madhu, K. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 1007

- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 197—** *All members of the Kerala State Police, notwithstanding their rank, would come under the purview of the requirement of sanction under Section 197 Cr. P.C., provided they are charged with maintenance of public order.*  
Unnikrishnan v. State of Kerala I.L.R. 2014 (1) Kerala . . . 993
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 197—** *Maintenance of public order need not be assigned a narrow meaning but must be used in a wider sense— Allegation that the police officer arrested the complainant and did not produce him within 24 hours before the jurisdictional Magistrate and threatened the complainant and forcibly got certain documents executed by him—Even though the police officer can be stated to have abused his power and authority and violated the law while in discharge of his official duty, the acts done by the police officer would come within the purview of the notification issued by the Government requiring sanction for prosecution. .*  
Unnikrishnan v. State of Kerala I.L.R. 2014 (1) Kerala . . . 993
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 311A—** *In order to invoke the power under Section 311 A, arrest of the accused in connection with the investigation or proceedings of the case is essential.*  
Saju Thuruthikunnel v. State of Kerala I.L.R. 2014 (1) Kerala . . . 134
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 366(1)—** *The High Court is expected to make an independent appreciation of the entire evidence while answering the Death Sentence Reference— Penal Code, 1860 (Central Act 45 of 1860)—Sections 302 and 376.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 437—** *The word 'arrested' in Section 437 has to be understood as 'under arrest' and thereby in custody— Arrest of an accused formally but without custody under the control of police will not fall within the term 'arrested', unless after such formal arrest physical presence of the accused is effected before court in execution of production warrant by the Magistrate.*  
Ashish Arora v. State of Kerala I.L.R. 2014 (1) Kerala . . . 113
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Sections 437 and 439—** *The accused cannot be detained in jail solely on the basis of formal arrest effected, if his release on bail has been ordered in the crimes in which he is detained in judicial custody—The detention of an accused on the basis of formal arrest in another crime, without any further order for his detention after production, will be illegal.*  
Ashish Arora v. State of Kerala I.L.R. 2014 (1) Kerala . . . 113
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 438—** *It cannot be said as an infallible and absolute rule that when an application for anticipatory bail is dismissed as withdrawn, the applicant cannot file a second application on the same set of facts—When a second application for anticipatory bail is made after withdrawing the first application, the court should consider the question whether the applicant was justified in withdrawing the earlier application—When a request for withdrawal of the application for anticipatory bail is made, it would be ideal for the Court to record the reason as to why the applicant wants to withdraw the application.*  
Aneesh v. State of Kerala I.L.R. 2014 (1) Kerala . . . 982

- Code of Criminal Procedure, 1973 (Central Act 2 of 1914)**—Section 439— *The special powers of the Court of Session or High Court can be invoked for the purpose of considering the application for bail submitted by a person, only when he is accused of an offence and is in custody in the case in which he applied for bail and not in any other case—A person who has been formally arrested and whose custody has not been obtained, cannot invoke Section 439 to seek bail from the High Court or Court of Session.*  
Ashish Arora v. State of Kerala I.L.R. 2014 (1) Kerala . . . 113
- Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**—Section 482—*The composition of non-compoundable offences cannot be resorted to in every case or dispute that is settled between the parties.*  
Joy v. State of Kerala I.L.R. 2014 (1) Kerala . . . 751
- Companies Act, 1956 (Central Act 1 of 1956)**—Sections 529A and 530—*The power of the State to create first charge on the property by virtue of Section 26B of the Kerala General Sales Tax Act must give way to the provisions of Sections 529A and 530 of the Companies Act—General Sales Tax Act, 1963 (Kerala Act 15 of 1963)—Section 26B.*  
Assistant Commissioner (Assessment) v. Official Liquidator I.L.R. 2014 (1) Kerala . . . 609
- Compensation for Tenants Improvements Act, 1958 (Kerala Act 29 of 1958)**—Sections 2 (d)(i) and 17—*The determination of the lease will not ipso facto deprive the lessee of the benefit conferred under the Act—On determination of the lease, the lessee becomes liable to be evicted on payment of compensation for the improvements effected by him.*  
Poddar Plantations Limited v. Thekkemariveetil Madhavi Amma I.L.R. 2014 (1) Kerala . . . 813
- Conservation of Paddy Land and Wetland Act, 2008 (Kerala Act 28 of 2008)**—*The question as to whether the property in question is paddy land or wetland is to be adjudged based on materials on record including the revenue record, if any—Mere description of the property in the revenue record may not be conclusive and may not estop party from producing materials to show otherwise.*  
Revenue Divisional Officer v. Jalaja Dileep I.L.R. 2014 (1) Kerala . . . 492
- Constitution of India**—Articles 14, 21, 32 and 226—*Notice issued proposing action for breach of privilege of the house—A writ petition under Article 32 is maintainable against notices issued alleging breach of privilege of the Legislative Assembly, if the petitioners are able to establish that the proposed actions are not permissible and would infringe the fundamental rights of the petitioners guaranteed under Articles 14 and 21 of the Constitution of India.*  
Justice Ripusudan Dayal (Retd.) v. State of M. P. (S.C.) I.L.R. 2014 (1) Kerala . . . 861
- Constitution of India**—Article 21—*Insanity/mental illness/schizophrenia is a crucial intervening circumstance which could be considered by the court in deciding whether, in the facts and circumstances of the case, death sentence could be commuted to life imprisonment.*  
Shatrughan Chauhan v. Union of India (S. C.) I.L.R. 2014 (1) Kerala . . . 397
- Constitution of India**—Article 21—*The executive action and the legal procedure adopted to deprive a person of his life or liberty must be fair, just and reasonable—The protection of Article 21 of the Constitution of India inheres in every person, even death row prisoners, till the very last breath of their lives—Guidelines for safeguarding the interest of death row convicts framed.*  
Shatrughan Chauhan v. Union of India (S. C.) I.L.R. 2014 (1) Kerala . . . 397



- Constitution of India**—Articles 21, 72 and 161—*The power of pardon vested in the President under Article 72 and the Governor under Article 161 is neither a matter of grace nor a matter of privilege but is an important constitutional responsibility—Though the power under Articles 72 and 161 is above judicial review, the manner of exercise of power is subject to judicial review—Unreasonable, unexplained and exorbitant delay in disposing mercy petitions, leading to delay in execution of death sentence, amounts to torture, which is violative of Article 21 and is hence a ground for commutation of sentence in all types of cases including offences under the TADA.*  
Shatrughan Chauhan v. Union of India (S. C.) I.L.R. 2014 (1) Kerala . . . 397
- Constitution of India**—Article 194 (3)—*Basic premise for the privilege enjoyed by members of the Parliament and the State Legislatures is to allow the members to perform their functions as members and to ensure that no hindrance is caused to the functioning of the house—Enquiry or investigation into an allegation of corruption against some officers of the Legislative Assembly cannot be said to interfere with the legislative function of the Assembly—There cannot be any privilege against conduct of investigation into a criminal offence.*  
Justice Ripusudan Dayal (Retd.) v. State of M. P. (S.C.) I.L.R. 2014 (1) Kerala . . . 861
- Constitution of India**—Article 226—*'Material fact'*—*Material fact is an essential fact which would influence the court in granting or refusing a relief—Suppression of material facts disentitles the party from getting discretionary relief in writ jurisdiction.*  
Ismail Kunju v. Panmana Grama Panchayat I.L.R. 2014 (1) Kerala . . . 28
- Constitution of India**—Article 226—*Police Protection*—*Police are duty bound to ensure that elections to the managing committees of Co-operative Societies in the State are conducted smoothly, without disturbance from any quarter.*  
Stanely Raj, H. v. Sub Inspector of Police I.L.R. 2014 (1) Kerala . . . 324
- Constitution of India**—Article 226—*Public Interest Litigation in service matters*—*Courts must take care and caution to see that under the guise of public interest an ugly private malice, vested interest or cheap publicity is not being achieved—In service matters a third party, having no concern with the case at hand, does not have locus standi to raise any grievance by way of public interest litigation.*  
Jaleel, P. P. v. Muralikrishnan, P. K. I.L.R. 2014 (1) Kerala . . . 894
- Constitution of India**—Article 226—*Writ of Habeus Corpus*—*Parents have the right to take decisions for and on behalf of their wards, even after the wards have become major—It is only in exceptional cases that the writ court will interfere with decisions of parents, in respect of their wards.*  
Lal Parameswar (Dr.) v. Ullas, N. N. I.L.R. 2014 (1) Kerala . . . 909
- Constitution of India**—Article 226—*A writ court is not a civil court and the judgment rendered by a writ court is not a decree for the purpose of execution—When the writ court passes a judgment with the express declaration that the judgment is in the nature of a decree, such judgment of a writ court can be executed in a civil court by resorting to the provisions under Order XXI C.P.C.—Code of Civil Procedure, 1908 (Central Act 5 of 1908)—Sections 37, 38, 39 and Order XX, Rule 6 and Order XXL*  
Chief Engineer (Irrigation) v. Reghunathan, K. I.L.R. 2014 (1) Kerala . . . 1001

- Constitution of India—Article 226—Transfer of Investigating Officers investigating the Sampath Murder Case, challenged on the ground of mala fides— The doctrine of judicial review in administrative/service matters is restricted and should be used sparingly—If a transfer order is issued by the competent authority after application of mind, it should not, normally be interfered with by the High Court or the Tribunal by invoking the doctrine of judicial review.**  
Unnikrishnan Nair, S. v. Union of India I.L.R. 2014 (1) Kerala . . . 36
- Constitution of India—Article 226—Transfer of Investigating Officers of CBI— Apprehension with regard to threat to their lives on account of transfer— Being a transferable job throughout India, the officer is bound to go to the place where he is transferred—If apprehensions with regard to threat to life is accepted as genuine, the same will affect the integrity of the Department and it will be difficult for the Department to transfer officers to distant places, thereby affecting the effective administration of the Department.**  
Unnikrishnan Nair, S. v. Union of India I.L.R. 2014 (1) Kerala . . . 36
- Constitution of India—Articles 226 and 227—Persons who were not parties before the Administrative Tribunal, cannot directly approach the High Court challenging decision of the Administrative Tribunal on the ground that the Tribunal had relied on a decision of the High Court, which did not refer to earlier decisions on the same point—Proper remedy for the party is to approach the Tribunal first and if aggrieved by the order of the Tribunal, to approach the High Court.**  
Radhakrishna Kurup, P. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 548
- Constitution of India—Article 227—High Court can interfere with orders passed by courts below, if impugned order is against established principles of law and also when grave injustice is done to party.**  
Susheela v. Deepika I.L.R. 2014 (1) Kerala . . . 850
- Constitution of India—Articles 246 and 254—When the legislations made by the Parliament and the State in exercise of their legislative powers are irreconcilable, the parliamentary legislation has supremacy—When the law is made with reference to entries in the concurrent list, unless the law made by the State is reserved for the assent of the President and such assent is received, the state law in so far as it is repugnant to the law made by the Parliament, must make way for the parliamentary legislation.**  
Assistant Commissioner (Assessment) v. Official Liquidator I.L.R. 2014 (1) Kerala . . . 609
- Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Section 19—Orders initiating proceedings of contempt is not appealable under Section 19— If the interim order causes substantial prejudice to the parties, then such orders even if it does not touch upon the substantial rights or liabilities of the parties, is appealable—High Court Act, 1958 (Kerala Act 5 of 1958)— Section 5.**  
Jyothilal, K. R. IAS v. Mathai, M. J. I.L.R. 2014 (1) Kerala . . . 475
- Contempt of Courts Act, 1971 (Central Act 70 of 1971)—Summoning of senior officials like Secretaries and Directors of Government should be done in rare and exceptional cases and only under compelling circumstances.**  
Jyothilal, K. R. IAS v. Mathai, M. J. I.L.R. 2014 (1) Kerala . . . 475
- Contempt of Court (High Court of Kerala) Rules, 1971—Rules 6, 8, 9, 10, 13,14 and 15—The procedure to be followed while initiating proceedings for contempt—Explained—The**

- Division Bench alone can take cognizance of the contempt petition—In case of civil contempt, the Single Bench has to hold a preliminary enquiry to decide whether a prima facie case is made out or not—The finding, of the Single Bench does not preclude the Division Bench from proceeding with the trial, since the Division Bench also has to find out a prima facie case at the time of hearing the contempt petition—Contempt of Courts Act, 1971 (Central Act 70 of 1971).*  
 Jyothilal, K. R. IAS v. Mathai, M. J. I.L.R. 2014 (1) Kerala . . . 475
- Contract Act, 1872 (Central Act 9 of 1872)—Section 23—Contract against public policy—Violation of provisions of Kerala Education Rules in a contract will make the contract illegal and consequentially, violative of Section 23—Education Rules. 1959 (Kerala)—Chapter III, Rule 9.**  
 Roopa, A. K. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 509
- Contract Act, 1872 (Central Act 9 of 1872)—Sections 171, 174 and 176—** *The bank has a general lien over all forms of security, including gold ornaments deposited by or on behalf of the borrower in the ordinary course of banking business, for the general balance of account due from him—In the absence of any contract to the contrary, the bank has a further right to sell the securities in discharge of the other liabilities due by the borrower—The burden to establish a contract to the contrary is always on the borrower.*  
 Nakulan v. Deputy General Manager, Canara Bank I.L.R. 2014 (1) Kerala . . . 601
- Co-operative Societies Rules, 1969 (Kerala)—Rule 67(7)—** *The power to declare a person ex pane is available only in cases where any party to the dispute is absent after being 'duly summoned'—The authority conferred with the power to declare a person ex pane, is by implication, conferred with the power to set aside such an order, if sufficient cause is shown.*  
 Joseph, A. R. v. Co-operative Arbitration Court, Kozhikode I.L.R. 2014 (1) Kerala . . . 374
- Copyright Act, 1957 (Central Act 14 of 1957)—Sections 2(s), 2(m), 13(1)(a), 13(1)(ii), 14, 18, 19 and 63—** *For claiming copyright over an artistic work it is not necessary that the work should be a published one—If the conditions in Section 13(2)(ii) are satisfied, copyright can be claimed in respect of an unpublished artistic work also.*  
 George Jacob v. Nandakumar I.L.R. 2014 (1) Kerala . . . 1035
- Copyright Act, 1957 (Central Act 14 of 1957)—Section 63—** *The test for determination as to whether there is any infringement or not is to see whether the reader, spectator, viewer, after having read or seen both the works, would be clearly of the opinion and would get an unmistakable impression that the subsequent work appears to be a copy of the first one.*  
 George Jacob v. Nandakumar I.L.R. 2014 (1) Kerala . . . 1035
- Criminal Trial—** *Expunging of remarks made by the trial court against the expert—When the expert tenders evidence which is patently false, the hands of the Court are not fettered in making an observation or finding that the said evidence is false—When the objectionable remarks and observation are required for the adjudication of the matter and to enter on a correct finding, the said objectionable remarks and observation become an integral part of the judgment and the same cannot be expunged.*  
 State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141

- Criminal Trial**—*Trial court need not permit examination of the defence witnesses who are cited just for causing vexation and delay.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940)**—*Sections 18 (a) (i) and 27(d)—After the amendment of 2008, the Magistrate Court as well as Sessions Court designated as Special Court are vested with powers to try the respective offences coming under the jurisdiction of those Courts— Even after the amendment of 2008, the Magistrate's Courts are vested with the jurisdiction to try the offences under Section 18 (a) (i) read with Section 27(d), if the allegation under Section 18 (a) (i) is that the drug is not of a standard quality—Drugs and Cosmetics (Amendment) Act, 2008 (Central Act 26 of 2008)—Section 36 AB.*  
Zest Pharma v. Drug Inspector I.L.R. 2014 (1) Kerala . . . 300
- Drugs and Cosmetics Rules, 1945 (Central)**—*Rule 66—The appellate authorities power and jurisdiction under Rule 66(2) is co-extensive with that of the licensing authority under Rule 66(1)—The appellate authority has to decide an appeal challenging the suspension or cancellation of license after extending an opportunity of personal hearing to the aggrieved person.*  
Francis, T. V. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 534
- Education Act, 1958 (Kerala Act 6 of 1959)**—*Section 7(2)—Duties of Manager enumerated in Section 7(2) applies to teaching and non-teaching staff—There cannot be an agreement between the approved Manager and another person to the effect that the Manager shall not make any appointment till transfer of management of school is completed—Manager has the statutory duty to make appointments, if required, so as to ensure smooth functioning of the school—Education Rules, 1959 (Kerala)— Chapter III, Rule 9.*  
Roopa, A. K. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 509
- Education Rules, 1959 (Kerala)**—*Chapter XIV A, Rule 51 A, Note 2—The statutory rules oblige the Manager to issue an offer for appointment and wait for the Teacher to report within 14 days—If such reporting does not occur, the Manager has to issue yet another letter indicating that, if the Teacher does not report for duty in another 7 days, it would be taken that the Teacher has relinquished the right under Rule 51A—Only by following the above statutorily prescribed sequence would the relinquishment, deprivation or abandonment of statutory right under Rule 51 A, get dissolved by operation of law.*  
Vinayaraj, K. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 621
- Electricity Board, Terms and Conditions of Supply, 2005**—*Independent dwelling units within a building will be provided with separate connection only if there is a separate entrance from outside and separate wiring for the premises.*  
Bhargavan Pillai K. P. v. Kerala State Electricity Board I.L.R. 2014 (1) Kerala . . . 502
- Electricity Rules, 1956 (Central)**—*Rules 77, 79, 80 and 82—Any person carrying out any erection, addition or alteration to any existing building or structure under an existing overhead electric line or carrying out construction of new structure under an overhead electric line is bound to issue notice in writing to the KSEB—A person not issuing such statutory notice cannot claim protection of having not caused the accident, by merely passing on the blame to the KSEB relying on the doctrine of strict liability.*  
Moidu Haji v. KunhLkrishnan Nair I.L.R. 2014 (1) Kerala . . . 82

- Electricity Rules, 1956 (Central)**—Rule 82—*A person putting up a structure under overhead electric line in violation of the provisions of the Electricity Act and Rules—The KSEB is bound to act on any violation of the provisions of the Act and Rules by taking appropriate action to remove the structure built without the sanction of the Board—The KSEB cannot exonerate itself from its liability to pay damages which is fastened on it by the doctrine of strict liability.*  
Moidu Haji v. Kunhikrishnan Nair I.L.R. 2014 (1) Kerala . . . 82
- Employees Compensation Act, 1923 (Central Act 8 of 1923)**—Section 4A—*Interest ordered by the Commissioner under Section 4A would be revenue receipt and therefore income—Insurer is liable to deduct Tax at source on the interest payable—Income Tax Act, 1961 (Central Act 43 of 1961)—Section 194A.*  
Manager, National insurance Company Ltd. v. Subhash N. Chandrabose I.L.R. 2014 (1) Kerala . . . 23
- Employees' State Insurance Act, 1948 (Central Act 34 of 1948)**—Sections 2 (8) and 2 (14)—*Even when there is default or negligence on the part of the employer to pay contribution with respect to an employee, the said employee has to be treated as an insured person—Section 2(14) clearly takes within its ambit an employee in respect of whom contribution is or was payable under the Act.*  
Employees' State Insurance Corporation v. Maria Tiles I.L.R. 2014 (1) Kerala . . . 661
- Employees State Insurance Act, 1948 (Central Act 34 of 1948)**—Sections 2 (9) and 2 (17)—*A person in control and supervision of the establishment, who is employed for wages in or in connection with the establishment, can also fall under the definition of the employer—There is no bar under the Act prohibiting a principal employer from being treated and considered as an employee of his establishment for the purpose of the Act.*  
Basheer, F. v. Regional Director, ESIC, Thrissur I.L.R. 2014 (1) Kerala . . . 765
- Estoppel**—*To set up a plea of promissory estoppel, promise should be clear, definite, unequivocal and should be one meant to be acted upon—The plea cannot be founded upon mere surmises and inferences.*  
K.S.E.B. v. M/s Hamsaveni Carbides I.L.R. 2014 (1) Kerala . . . 921
- Evidence Act, 1872 (Central Act 1 of 1872)**—Section 45—*The value of the opinion of the expert rests on the facts on which it is based and his competency for forming a reliable opinion—The importance of an opinion of an expert is to be tested on the basis of the credibility of the expert and the relevant facts supporting the opinion so that its accuracy can be cross checked—Emphasis should be given to the data on the basis of which such opinion has been formed.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Evidence Act, 1872 (Central Act 1 of 1872)**—Section 73—*The Magistrate has ample power and jurisdiction to invoke Section 73 of the Act for directing the accused to furnish specimen handwriting for the purpose of comparison—Section 73 does not prescribe any specific time for invocation of the Court's power.*  
Saju Thuruthikunnel v. State of Kerala I.L.R. 2014 (1) Kerala . . . 134
- Evidence Act, 1872 (Central Act 1 of 1872)**—Section 114—*When valuable articles are removed from the body of the deceased after causing her death or during the time of murder, such property will assume the characteristics of stolen property—The possession of stolen property by an accused is sufficient to attract the presumption under Section*

- 114 of the Evidence Act—Penal Code, 1860 (Central Act 45 of 1860)—Sections 302 and 376.*  
 State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Evidence Act, 1872 (Central Act 1 of 1872)—Section 115—Estoppel—Consent decree creates estoppel by judgment between parties—Person who had relinquished his rights as per the compromise decree, cannot later turn around and claim partition.**  
 Balan Nambiar M.K.V. v. Sankara Kurup T. I.L.R. 2014 (1) Kerala . . . 342
- Evidence Act, 1872 (Central Act 1 of 1872)—Sections 148, 149, 150, 151 and 152—Under the guise of cross-examination, a lawyer cannot be permitted to put such questions containing defamatory and scandalous matters against the deceased as well as other innocent persons who had no connection with the incident—The trial court should not permit the counsel to put such questions containing defamatory and scandalous remarks.**  
 State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala 141
- Food Safety and Standards Act, 2006 (Central Act 34 of 2006)—Section 47(1)(c)—There is no statutory stipulation that an appellant, challenging the correctness of an analysis report, should produce the report of the accredited laboratory along with the appeal—Appeal cannot be dismissed on the ground that report of the accredited laboratory is not produced.**  
 Dharampal Satyapal Ltd. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 854
- Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (Kerala Act 21 of 2005)—Section 9(1)—A Judicial Officer posted to a designated court can assume charge of that post without any further notification in that regard—Directions issued—Private Forest (Vesting and Assignment) Act, 1971 (Kerala Act 26 of 1971)—Section 7.**  
 Kurien E. Kalathil v. State of Kerala I.L.R. 2014 (1) Kerala . . . 719
- General Sales Tax Act, 1963 (Kerala Act 15 of 1963)—Section 45 A— Mere default in payment of tax alone cannot be a ground to impose maximum penalty—There must be proper exercise of judicial mind to assess the penalty, taking into consideration the objectionable conduct or intention of the assessee.**  
 M/s Yogesh Trading Company v. State of Kerala I.L.R. 2014 (1) Kerala . . . 1
- Head Load Workers Rules, 1981 (Kerala)—Rules 25A, 26C and 26A—An order passed under Rule 26A refusing to grant registration is appealable under Rule 26C and does not contain any requirement of a consent from the opposite party or leave from the presiding officer for engaging a counsel—Head Load Workers Act, 1978 (Kerala Act 20 of 1980)—Section 21.**  
 Abdul Majeed M.Y. v. Secretary to Govt. Labour & Rehabilitation Dept. I.L.R. 2014 (1) Kerala . . . 393
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)—Section 13(1)(i)— 'Adultery'—In cases where adultery is alleged, petitioner has to prove his case and the court should be satisfied of the ground for dissolution—The court need not insist on direct evidence to prove adultery and can act upon preponderance of probabilities.**  
 Mohandas P. Panicker v. Dakshayani, K. K. I.L.R. 2014 (1) Kerala . . . 538
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)—Section 13B—The question of conducting an enquiry as provided under Section 13B (2) arises only if the petition is not withdrawn within the period of 6 months—The parties are at liberty to withdraw a petition at the stage of enquiry contemplated under Section 13B (2)—Once the petition is**

- withdrawn by either of the parties, the court loses its jurisdiction to pass a decree of divorce by mutual consent.*  
Rajesh R. Nair v. Meera Babu I.L.R. 2014 (1) Kerala . . . 553
- Hindu Marriage Act, 1955 (Central Act 25 of 1955)**—Section 13B (2)—*It is not for the Court to probe into the bona fides or reasonableness of the withdrawal of consent—Once the consent is withdrawn by either of the parties, the only option available to the Court is to close the matter.*  
Rajesh R. Nair v. Meera Babu I.L.R. 2014 (1) Kerala . . . 553
- Immigration (Carriers Liability) Act, 2000 (Central Act 52 of 2000)**—Section 3—*Airlines bringing in a foreign national, whose visa had already expired, into India—Airlines contending that the said act was not done purposefully or intentionally—The law does not contemplate any intention to be attributed as to the offence involved—In view of threats from various corners, it is obligatory on the part of the carrier to verify all the relevant documents before permitting any passenger to travel in the airline— Passport (Entry into India) Rules, 1950 (Central)—Rule 3(a).*  
Kuwait Airways Corporation v. Union of India I.L.R. 2014 (1) Kerala . . . 681
- Immigration (Carriers Liability) Act, 2000 (Central Act 52 of 2000)**—Section 3—*Mistake in quoting the provision in the show cause notice, not taken up as a ground in the appeal— Grounds which are not taken up in appeal cannot be agitated in a writ petition before the High Court—Passport (Entry into India) Rules, 1950 (Central)—Rule 3 (a).*  
Kuwait Airways Corporation v. Union of India I.L.R. 2014 (1) Kerala . . . 681
- Insecticides Act, 1968 (Central Act 46 of 1968)**—Section 9—*The registering authority under the Insecticides Act is not obliged to consider the question relating to patent violation and whether patent is liable to be revoked—Patents Act, 1970 (Central Act 39 of 1970)— Section 48.*  
Shogun Organics Ltd. v. Union of India I.L.R. 2014 (1) Kerala . . . 626
- Juvenile Justice (Care and Protection of Children) Act, 2000 (Central Act 56 of 2000)**—*A Muslim can adopt a child in accordance with the provisions of the Act and Rules made thereunder, irrespective of prohibition under Islamic Personal Law—Juvenile Justice Act does not distinguish between persons professing different faiths.*  
Shabnam Hashim v. Union of India (S.C.) I.L.R. 2014 (1) Kerala . . . 771
- Kerala University Act, 1974 (Kerala Act 17 of 1974)**—Sections 7(3), 7(10) and 18(3)—*When the Chancellor endorses "I agree" on the file which recommends the withdrawal of nomination of a Senate Member nominated by him, it would mean that the Chancellor has taken a decision to withdraw the nomination of the Senate Member.*  
Deepak, S. P. v. Chancellor I.L.R. 2014 (1) Kerala . . . 786
- Kerala University Act, 1974 (Kerala Act 17 of 1974)**—Sections 7(3), 7(10) and 18(3)—*When the Chancellor exercises his power under Section 7(3) to withdraw the nomination of a Senate Member, the Chancellor is obliged to issue an order—The order cannot be an oral order—The order should contain substance of the matter and the decision of the Chancellor must be self evident from the order.*  
Deepak, S. P. v. Chancellor I.L.R. 2014 (1) Kerala . . . 786

- Kerala University Act, 1974 (Kerala Act 17 of 1974)**—Sections 7(10) and 18(3)— *When the Governor is exercising his power ex officio as a Chancellor of the University, he is acting purely as a statutory authority—He does not have the immunity extended to him by virtue of Article 361 of the Constitution in relation to his act as Governor—Constitution of India— Article 226.*  
Deepak, S. P. v. Chancellor I.L.R. 2014 (1) Kerala . . . 786
- Land Assignment Act, 1960 (Kerala Act 30 of 1960)**—Section 9(3)—*Though the Cardamom Rules (Travancore), 1935 is not made under the Travancore-Cochin Government Land Assignment Act, 1950, by virtue of Section 23 of the Kerala Interpretation and General Clauses Act, 1925, the Cardamom Rules (Travancore), 1935 would be deemed to be made under the Travancore-Cochin Government Land Assignment Act, 1950—The Cardamom Rules (Travancore), 1935 stands repealed by virtue of Section 9(3) of the Kerala Land Assignment Act, 1960.*  
Vincy Cherian Cherian v. State of Kerala I.L.R. 2014 (1) Kerala . . . 9
- Land Acquisition Act, 1894 (Central Act 1 of 1894)**—Section 28A— *Application under Section 28A was moved based on the judgment in a reference and turned down on merits with the decision thereon becoming final—Second application under Section 28A on the basis of judgment in another reference is not maintainable.*  
Thankappan Nair, T. P. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 381
- Land Reforms Act, 1963 (Kerala Act 1 of 1964)**—Sections 2(44)(c) and 3(l)(viii)—*If the tenant is entitled to fixity over the plantation (not being in excess of 30 acres), then, the land referred to in Section 2(44)(c) should also be counted and the tenant shall not be evicted from that land, even though he is not entitled to fixity of such land.*  
Poddar Plantations Limited v. Thekkemariyeetil Madhavi Amma I.L.R. 2014 (1) Kerala . . . 813
- Land Reforms Act, 1963 (Kerala Act 1 of 1964)**—Sections 3 and 132—*The exemptions provided under Section 3(1)(i) to Section 3(l)(viii), would not apply to persons otherwise entitled to the benefit of the Tenancy Act—The Tenancy Act stood repealed with effect from 1-4-1964 by virtue of Section 132(2)(iii) of the Kerala Land Reforms Act—Malabar Tenancy Act, 1929 (Kerala Act 14 of 1930)—Section 2.*  
Poddar Plantations Limited v. Thekkemariyeetil Madhavi Amma I.L.R. 2014 (1) Kerala . . . 813
- Limitation Act, 1963 (Central Act 36 of 1963)**—Section 3—*It is the duty of the Court to dismiss a suit instituted after the prescribed period of limitation, despite the fact that limitation has not been pleaded as a defence.*  
Kurian E. Kalathil v. Kerala State Electricity Board I.L.R. 2014 (1) Kerala . . . 676
- Limitation Act, 1963 (Central Act 36 of 1963)**—Section 10 and Article 58— *Where the wife, with the consent of the husband, act as a trustee of the husband's property in a fiduciary capacity, the wife has the duty to convey the property to the husband as and when he demands—Article 58 of Limitation Act is not applicable in such cases and it is Section 10 of the Limitation Act, which does not provide for any time-limit, that is applicable—Trust Act, 1882 (Central Act 2 of 1882)—Section 3.*  
Belcita Vincent Gomez v. Vincent Gomez I.L.R. 2014 (1) Kerala . . . 327



- Limitation Act, 1963 (Central Act 36 of 1963)**—*Section 18—Extension of period of limitation—Acknowledgment of liability by the mortgagor, made after the assignment of the equity of redemption, will not be a valid acknowledgement so as to bind the assignee of the mortgaged property.*  
Francis, P. J. v. Antony, P. J. I.L.R. 2014 (1) Kerala . . 1023
- Limitation Act, 1963 (Central Act 36 of 1963)**—*Section 21 and Article 113— In case of a defendant who is additionally impleaded after the institution of the suit, the suit shall be deemed to have been instituted against him only when he is made a party—Where no corresponding Article for claiming damages in the general law has been provided under the Limitation Act, the case will have to be governed by the residuary Article 113 of the Limitation Act.*  
Joseph, K. J. v. Manager, New India Assurance Co. Ltd. I.L.R. 2014 (1) Kerala . . 1014
- Limitation Act, 1963 (Central Act 36 of 1963)**—*Article 44(b)—The provisions of Article 44(b) applies only in cases of a suit by the insured against the insurance company—It does not apply to a suit by the insured against a third party.*  
Joseph, K. J. v. Manager, New India Assurance Co. Ltd. I.L.R. 2014 (1) Kerala . . 1014
- Limitation Act, 1963 (Central Act 36 of 1963)**—*Article 72—Article 72 would come into operation only in cases where a public official or public authority, in good faith and under honest belief, does an act injurious or possibly injurious to another under the powers conferred by some act of legislature—The suit has to be filed within a period of 1 year from the commission of the act—Article 72 will have no application where the act is done in an improper manner, out of malice or carelessness, by a public functionary.*  
Joseph, K. J. v. Manager, New India Assurance Co. Ltd. I.L.R. 2014 (1) Kerala . . 1014
- Manufacture and Sale of Stamp Rules, 1960 (Kerala)**—*Rule 33A—Stamp paper without date of issue or office of issue cannot be received in evidence and such a document is liable to be impounded.*  
Soudamini v. Viswambharan I.L.R. 2014 (1) Kerala . . 1064
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Sections 2 and 10—It is not necessary for an instructor to have 5 years experience in each and every category of vehicle for imparting instructions in each such category— The 5 years experience of an instructor can be insisted upon only in general terms as long as it is not specifically expressed in the Rules— Motor Vehicles Rules, 1989 (Central)—Rules 24 and 25.*  
Milan v. Regional Transport Officer I.L.R. 2014 (1) Kerala - . . 1091
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Sections 2 (38), 70 and 89— The power of the appellate authority is not restricted or limited to cases where the finding of the original authority is perverse—An appeal is a re-hearing of the matter and the power of the appellate authority is co-extensive with that of the original authority.*  
Prمود Kumar v. K.S.R.T.C. I.L.R. 2014 (1) Kerala . . 949
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 52—Even if the total number of seats actually fixed and the number of seats for which permission is granted under the Motor Vehicles Act are at variance with the seating capacity as designed by the manufacturer, the tax payable under the Kerala Motor Vehicles Taxation Act, for a*

- contract carriage, will be on the basis of the definite seating capacity as designed by the manufacturer—Motor Vehicles Taxation Act, 1976 (Kerala Act 19 of 1976)—Section 3.*  
 Musthaffa, K. K. v. Assistant Motor Vehicle Inspector I.L.R. 2014 (1) Kerala . . . 977
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Sections 99(2), 103(2) and 104—Once the approved scheme comes into play, no permit can be granted by the authority contrary to the terms of the approved scheme—If in any case the permit is granted violating the scheme, there is no power under Section 103 to either cancel or modify the same— Other remedies have to be resorted to.*  
 Pramod Kumar v. K.S.R.T.C. I.L.R. 2014 (1) Kerala . . . 949
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 104—The authority has the power to grant temporary permit notwithstanding the scheme and in effect against the terms of the scheme, if the conditions stipulated in the proviso are satisfied.*  
 Pramod Kumar v. K.S.R.T.C. I.L.R. 2014 (1) Kerala . . . 949
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 147—A package/ comprehensive policy will not ipso facto cover the liability of all gratuitous passenger carried in all type of vehicles, including goods vehicles, unless extra premium is collected by the Insurance Company— The circular issued by the IRDA, in the case of package/comprehensive policy is in respect of persons carried in a private car or a pillion rider carried in a two wheeler.*  
 New India Assurance Company Ltd. v. Mohammed Ali S. I.L.R. 2014 (1) Kerala . . . 97
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 149—If there is a breach of policy condition by the insured, the same has to be proved and established by the insurer by adducing cogent evidence to avoid its liability—Mere filing of an application asking the driver to produce the licence cannot discharge the burden of proving the breach of policy condition by the insured.*  
 Santhosh, M. V. v. Binu, P. C. I.L.R. 2014 (1) Kerala . . . 806
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 163A—In a claim under Section 163A, the Tribunal need not even go into the question of selection of the multiplier—The legal heirs are entitled to claim compensation under the 2nd Schedule to the Motor Vehicles Act, which is based on two factors, namely the age of the deceased and the annual income of the deceased—Only 1/3rd of the income of the deceased can be deducted for personal expenses of the deceased, for the purpose of calculating compensation under Section 163A.*  
 Kadeeja v. Managing Director, KSRTC I.L.R. 2014 (1) Kerala . . . 107
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Sections 163A and 166—There is wide difference in the words used in Sections 163A and 166, regarding the persons entitled to apply for compensation in the case of death of a person who died in a Motor Vehicle Accident—Under Section 163A, the persons entitled to claim compensation are the legal heirs of the deceased and under Section 166, the persons entitled to claim compensation are the legal representatives of the deceased—Legal representatives include legal heirs as well and not vice-versa.*  
 Kadeeja v. Managing Director, KSRTC I.L.R. 2014 (1) Kerala . . . 107
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)**—*Section 166—Failure to produce Driving Licence by driver pursuant to direction by the Tribunal will not entitle the Insurer to*

- avoid liability to pay compensation—Insurer has to plead and prove that insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of policy regarding the use of vehicle by a duly licensed driver or one who was not qualified to drive at the relevant time.*  
Ramesh Danial v. Bineesh, K. M. I.L.R. 2014 (1) Kerala . . . 564
- Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Sections 166 and 173—***When more than one claim petition arise from an accident, it is desirable and more advantageous for the Tribunal to consider all such claims together—Even if common findings are made with respect to the points for determination arising under such claim, that by itself cannot be viewed as barring one or other party in the proceedings from challenging the legality and correctness of the findings in one of the claim petitions, disposed under the common award passed by the Tribunal—The principles of res judicata cannot be pressed into service to deny the right of such aggrieved person to limit his challenge against the award passed in one of the claim petitions.*  
Santhosh, M. V. v. Binu, P. C. I.L.R. 2014 (1) Kerala . . . 806
- Municipality Act, 1994 (Kerala Act 20 of 1994)—(Ordinance No. 33 of 2013)—Sections 447(7), 447(8), 447(9) and 447(10)—***The new provisions introduced by Ordinance 33 of 2013 mandates obtaining permission in writing of a Municipality as well as compliance with the conditions specified in such permission, before locating an Abkari Shop within a municipal area—The explanation added as per the new ordinance would include a beer/wine parlor functioning on the basis of an FL-11 licence.*  
M/s PTS Hotels India Pvt. Ltd. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 385
- Muslim Women's (Protection of Rights on Divorce) Act, 1986 (Central Act 25 of 1986)—***Section 3—The Court should not shut its eyes to the realities in life while fixing the quantum of amount payable under fair and reasonable provisions to a divorced muslim woman—The multiplier of 5, adopted by the High Court in earlier decisions, is on the lower side, considering the money value at the present time—Multiplier enhanced from 5 to 10 years, while computing the fair value to be paid to the divorced muslim woman, cannot be said to be erroneous.*  
Kunhi Mohammed v. Sajitha, A. P. I.L.R. 2014 (1) Kerala . . . 687
- Muslim Women (Protection of Rights on Divorce) Act, 1986 (Central Act 25 of 1986)—***Section 3(1)(a)—The reasonable and fair provision should be calculated by the court to ensure that it is reasonable and fair—Even if the claim of the divorced wife is less, the court is not helpless in awarding a higher amount as reasonable and fair provision.*  
Chembrath Arakkal Jamal v. Kunnummal Manseera I.L.R. 2014 (1) Kerala . . . 1079
- Muslim Women (Protection of Rights on Divorce) Act, 1986 (Central Act 25 of 1986)—***Section 3(1)(a)—While computing the maintenance to be paid to a divorced woman, there is no statutory interdiction limiting the reasonable and fair provision to an amount equal to the maintenance for 5 years—In appropriate cases, the court can award higher amounts when the court thinks it is reasonable and fair—The former husband is bound to make a reasonable and fair provision to the divorced wife and is also bound to maintain the divorced wife during the iddath period.*  
Chembrath Arakkal Jamal v. Kunnummal Manseera I.L.R. 2014 (1) Kerala . . . 1079
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)—Section 138—***Notice of demand—Notice of demand in writing should be by the payee or holder In due course of*

- the dishonoured cheque—Notice issued by an unnamed person, without even stating that he is authorised by the payee to issue the notice, cannot be considered as a notice of demand.*  
Abida, M. A. v. M/s H.M.T. Watches Ltd. I.L.R. 2014 (1) Kerala . . . 1042
- Negotiable Instruments Act, 1881 (Central Act 26 of 1881)—Section 138—Where part payments were made towards the amount covered by a cheque, prior to presentation of the cheque, the dishonoured cheque cannot be made use of to prefer complaint under Section 138.**  
Abida, M. A. v. M/s H.M.T. Watches Ltd. I.L.R. 2014 (1) Kerala . . . 1042
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 161—Principle of collective responsibility applies to members of panchayat, including dissenting members—Dissenting member cannot challenge decision of the panchayat before the Government.**  
Vanaraj v. Santhanpara Grama Panchayat I.L.R. 2014 (1) Kerala . . . 1067
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 191(1)—Power of cancellation and suspension of resolution—Resolution of Panchayat can be challenged by a member of the Panchayat before the Government only by reference to the Government.**  
Vanaraj v. Santhanpara Grama Panchayat I.L.R. 2014 (1) Kerala . . . 1067
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Section 218—The Panchayat is statutorily bound to ensure the preservation of ponds—Just because the pond situated in the puramboke is vested with the Panchayat, it does not clothe the Panchayat with the power to fill up the pond.**  
Kuriyakose Thomas v. Ombudsman for Local Self Government Institution I.L.R. 2014 (1) Kerala . . . 366
- Panchayat Raj Act, 1994 (Kerala Act 13 of 1994)—Sections 271 F and 271 J—The Ombudsman does not have the jurisdiction to entertain a complaint for demarcation of a boundary and removal of encroachment—For the Ombudsman to have jurisdiction to entertain a complaint, the complaint should contain an allegation against a public servant or Local Self Government Institution.**  
Kuriyakose Thomas v. Ombudsman for Local Self Government Institution I.L.R. 2014 (1) Kerala . . . 366
- Partition—Cause of action for a suit for partition is recurring and continues to be so, until a preliminary decree is passed or other decision is entered by a competent court.**  
Balan Nambiar, M. K. V. v. Sankara Kurup, T. I.L.R. 2014 (1) Kerala . . . 342
- Patents Act, 1970 (Central Act 39 of 1970)—Section 156—Though the Government is the grantor of the patent, if there is violation by the Government it is open to the patentee to take proceedings against the Government.**  
Shogun Organics Ltd. v. Union of India I.L.R. 2014 (1) Kerala . . . 626
- Penal Code, 1860 (Central Act 45 of 1860)—Section 379—A person in possession of a vehicle by virtue of a lawful agreement, either oral or written, with the registered owner, can be deemed to be a person in rightful possession of a vehicle and when a motor vehicle is stolen from the custody of a person having such possession, that act would come under the offence of theft, notwithstanding the fact that the registered owner is another person—Motor Vehicles Act, 1988 (Central Act 59 of 1988)—Section 2(30)—Contract Act, 1872 (Central Act 9 of 1872)—Section 2(e).**  
Abdul Gafoor v. State of Kerala I.L.R. 2014 (1) Kerala . . . 125

- Penal Code, 1860 (Central Act 45 of 1860)**—*Section 302—Imposition of death sentence—The accused barged into the ladies compartment of the train and pounced on the deceased and after inflicting fatal injuries on her, dropped her from the running train resulting in further fatal injuries— The accused thereafter jumped out of the train and brutally raped the almost unconscious victim resulting in the death of the victim—The accused is a perfect example of a blood thirsty and hardened criminal, who deserves the death sentence for his inhuman, extremely brutal and diabolic act—Code of Criminal Procedure, 1973 (Central Act 2 of 1974)— Section 354 (3).*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Penal Code, 1860 (Central Act 45 of 1860)**—*Sections 302 and 376—In a case based on circumstantial evidence, all incriminating facts and circumstances should be incompatible with the innocence of the accused— The absence of any explanation by the accused, to the questions on such incriminating circumstances appearing in the prosecution evidence as against the accused, which were specifically put to the accused when examined under Section 313 Cr.P.C., would clearly fill up any missing link or act as additional links in the chain of circumstances.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Penal Code, 1860 (Central Act 45 of 1860)**—*Sections 302 and 376—Safety of woman passengers travelling in trains—The Indian Railways, which is the largest public transport system in the country should provide adequate safety measures to the woman passengers, especially those who travel by the ladies compartment—The ladies coaches should be attached to the middle of the train—It is desirable to have at least 2 armed woman guards, who are equipped with sufficient modern communication facilities, to be employed on duty at a time, in each of such ladies coaches,*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Penal Code, 1860 (Central Act 45 of 1860)**—*Sections 302 and 376— The confession statement made by an accused to the Doctor in the absence of the police, amounts to extra-judicial confession and is admissible in evidence—Penal Code, 1860 (Central Act 45 of 1860)— Sections 302 and 376.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141
- Penal Code, 1860 (Central Act 45 of 1860)**—*Section 326—When the prosecution allegation is that grievous injuries were inflicted by the accused with a stone, the prosecution must produce the stone as a material object, in order for the Court to examine whether the stone is a deadly weapon depending on the size of the weapon, sharpness etc.—In the absence of production of the alleged weapon of offence and in the absence of necessary materials for deciding whether the alleged weapon of offence is likely to cause death, the conviction under Section 326 is not proper.*  
Joy v. State of Kerala I.L.R. 2014 (1) Kerala . . . 751
- Penal Code, 1860 (Central Act 45 of 1860)**—*Section 376—As per the directives of the Apex Court, in all rape trials, the anonymity of the victim must be maintained as far as necessary.*  
State of Kerala v. Govindaswamy I.L.R. 2014 (1) Kerala . . . 141

- Penal Code, 1860 (Central Act 45 of 1860)**—Section 494—Chapters XX and XXI— *In respect of offences falling under Chapter XX or XXI of I.P.C., the referring of the case by the Magistrate for investigation by the police under Section 156(3) Cr. P.C. would be an exercise in futility since the Court cannot take cognizance based on the final report filed by the police—Even if the Magistrate refers the case for investigation under Section 156(3) Cr. P.C. in respect of an offence under Chapter XX or Chapter XXI, the Magistrate can ignore the final report and proceed with the enquiry under Section 200 Cr. P.C.*  
Sherin v. State of Kerala I.L.R. 2014 (1) Kerala . . . 1074
- Penal Code, 1860 (Central Act 45 of 1860)**—Section 494—*Taking cognizance of an offence under Section 494 based on a final report filed by the police under Section 173(2) Cr. P.C. is illegal—No Court shall take cognizance of an offence punishable under Chapter XX of I.P.C. except upon the complaint of a person aggrieved by the offence—Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—Section 198.*  
Sherin v. State of Kerala I.L.R. 2014 (1) Kerala . . . 1074
- Penal Code, 1860 (Central Act 45 of 1860)**—Section 494—*The offence of bigamy will not be attracted on a Muslim male contracting a second marriage during the subsistence of the first marriage.*  
Sherin v. State of Kerala LL.R. 2014 (1) Kerala . . . 1074
- Pensions Act, 1871 (Central Act 23 of 1871)**—Section 11—*Amount of pension received by a retiree on account of his past services shall not be attached in execution of any decree or order of any Court—Service Rules, 1959(Kerala)—Rule 124—Code of Civil Procedure, 1908(Central Act 5 of 1908)—Section 60.*  
Leela Bhai, K. R. v. Indian Overseas Bank I.L.R. 2014 (1) Kerala . . . 1011
- Press and Registration of Books Act, 1867 (Central Act 25 of 1867)**—Section 7— *The claim of the Chief Editor, Executive Editor, Managing Editor etc. of a publication that they are not responsible for selecting the matter to be printed and published is a fact which has to be established at the time of trial—Code of Criminal Procedure, 1973 (Central Act 2 of 1974)— Section 482.*  
George Jacob v. Nandakumar I.L.R. 2014 (1) Kerala . . . 1035
- Prisons Act, 1894 (Central Act 9 of 1894)**—Section 30—*Solitary confinement is not sanctioned by Section 30 of the Prisons Act, for prisoners under sentence of death—Keeping a prisoner in solitary confinement would amount to inflicting additional and separate punishment not authorized by law.*  
Shatrughan Chauhan v. Union of India (S. C.) I.L.R. 2014 (1) Kerala . . . 397
- Promissory Estoppel**—*Doctrine of promissory estoppel cannot be used to compel the public bodies or the Government to carry out the representation or promise which is contrary to law or which is outside their power— Promissory estoppel cannot be held out to prevent the Electricity Board from realising the charges for supplying electricity to the consumer.*  
K.S.E.B. v. M/s Hamsaveni Carbides I.L.R. 2014 (1) Kerala . . . 921
- Registration Act, 1908 (Central Act 16 of 1908)**—Section 17(2)(vi)—*When the compromise decree is with respect to a property which is the subject-matter of the suit or proceeding,*

*registration is not compulsory—If compromise involves a property which is not the subject-matter of the suit, the compromise decree becomes compulsorily registerable.*

Balan Nambiar, M. K. V. v. Sankara Kurup, T. I.L.R. 2014 (1) Kerala . . . 342

**Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Central Act 33 of 1989)**—Sections 3 and 9—*The offences coming under the Act can be investigated only by a police officer not below the rank of a Deputy Superintendent of Police—The investigating officer shall be appointed by the State Government/Director General of Police after taking into account the past experience of the officer, sense of ability and justice of the officer to perceive the implications of the case and to investigate it along the right lines within the shortest possible time—Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (Central)—Rule 7.*

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**Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (Central)**—Rule 7—*An officer who is appointed by the State Government/ Director General of Police/Superintendent of Police cannot delegate his functions or appoint another officer in his place to conduct the investigation.*

Sukumaran @ Suku v. State of Kerala I.L.R. 2014 (1) Kerala . . . 1095

**Service**—*Appointment under compassionate appointment scheme—Applicant, minor at the time of father's death—Making application for appointment on attaining majority—It is against public interest to direct employer to grant appointment under compassionate appointment scheme to the dependant who made the application several years after the death of her father.*

Geethu Mohan v. Travancore Devaswom Board I.L.R. 2014 (1) Kerala . . . 941

**Service**—*Qualification to the post of L.D. Typist—Ex-service man with 15 year's service as Clerk/Writer is eligible to be considered for the post of L.D. Typist—Service above 15 years alone will be counted for the purpose of giving weightage of marks.*

Anilkumar, M. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 498

**Service Rules, 1958 (Kerala)**—Part I, Rule 55—*Subsistence allowance—Karanma employees employed by Travancore Devaswom Board are entitled to receive subsistence allowance during the period of suspension, just like departmental employees.*

Ashok Kumar, G. v. Travancore Devaswom Board I.L.R. 2014 (1) Kerala . . . 757

**State and Subordinate Services Rules, 1958 (Kerala)**—Rule 17 C—*Member of Cheramar community, entitled to reservation under the category of 'Other Christian', embracing Hinduism after last date fixed for submission of application—'Hindu Cheramar' is a Scheduled Caste community in the State of Kerala—The convert cannot claim reservation under the category of 'Other Christian' as he had converted from that community before appointment—Claim of the candidate as stated in the application must hold good upto the stage of his appointment, which is when the candidate satisfies the object of reservation, by representing the community concerned, in the services of the State.*

Rejimon, P. J. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 698

**Succession Act, 1925 (Central Act 39 of 1925)**—Section 63—*Execution of unprivileged will—Before considering whether the will has been duly proved, court should examine whether all the suspicious circumstances have been satisfactorily explained by the propounder—Where there is serious contention regarding handwriting or signature of the testator,*

*opinion of the handwriting expert assumes significance—In such cases, the Court should get the opinion of the handwriting expert—Evidence Act, 1872 (Central Act 1 of 1872)—Sections 45 to 47, 67 and 68.*

Susheela v. Deepika I.L.R. 2014 (1) Kerala . . . 850

**Succession Act, 1925 (Central Act 39 of 1925)—Section 372—***The application for issuance of succession certificate need not be within 3 years from the date of the death of the deceased—The claim may arise at anytime after the death of the deceased, depending upon the term or period of deposit made by the deceased and as to when the legal heirs are intimated of that fact—Limitation Act, 1963 (Central Act 36 of 1963)—Article 137.*

Manoj Kabeer v. Fareeza Sulaiman I.L.R. 2014 (1) Kerala . . . 130

**Telegraph Act, 1910 (Central Act 9 of 1910)—Sections 10 and 16—***Power under Section 16(1) need be invoked by the District Magistrate only if exercise of power under Section 10 is resisted or obstructed—Once the service wire is drawn there is no scope for invoking Section 16(1).*

Bhargavan Pillai K. P. v. Kerala State Electricity Board I.L.R. 2014 (1) Kerala . . . 502

**Torts—***Malice does not by itself give rise to a cause of action unless there is an infringement of a legal right—A person who has committed an illegal act cannot claim damages for any injury suffered by him consequent to his illegal act, even if there was malice in inflicting damages on him.*

Madhu, D. v. State of Kerala I.L.R. 2014 (1) Kerala . . . 293

**Transfer of Property Act, 1882 (Central Act 4 of 1882)—Section 52—***'Lis pendens'—Decree in the suit will bind the assignee 'pendente lite', even if the assignee was not impleaded as a defendant in the suit.*

Balan Nambiar, M. K. V. v. Sankara Kurup, T. I.L.R. 2014 (1) Kerala . . . 342

**Transfer of Property Act, 1882 (Central Act 4 of 1882)—Sections 106 and 107—***If the lease deed is an unregistered one and not produced in evidence, the tenancy can be presumed to be from month to month in view of Sections 106 and 107 of the Transfer of Property Act—Buildings (Lease and Rent Control) Act, 1965 (Kerala Act 2 of 1965)—Section 11(9).*

Basheer, M. v. Remani Gopalan I.L.R. 2014 (1) Kerala . . . 724

**Transfer of Property Act, 1882 (Central Act 4 of 1882)—Section 108(d)—***Doctrine of accretion—In a case of property which is leased, the lessee cannot encroach upon the property belonging to the lessor and claim the right of accretion—The possession by the lessee should be presumed to be for and on behalf of the lessor—Accession is a mode of acquiring property in addition to the existing property by natural growth or by application of human labour.*

Orkatkandiyil Shuhaib v. Maniyoth Moidu I.L.R. 2014 (1) Kerala . . . 1086

**Transfer of Property Act, 1882 (Central Act 4 of 1882)—Section 108(q)—***A lessee is bound to keep the identity of the leased property intact until the lessor is put in possession of the said property, on determination of the lease—If the lessee, by his own act, default or negligence has interfered with the boundaries or mixed up the leased property with his own land, he cannot dispute the identity of the leased property and take advantage of his own act, default or negligence.*

Poddar Plantations Limited v. Thekkemariveetil Madhavi Amma I.L.R. 2014 (1) Kerala . . . 813



**Travancore-Cochin Hindu Religious Institutions Act, 1950 (Travancore-Cochin Act 15 of 1950)**—Section 28—Karanma employees are under the disciplinary control of the Devaswom Board—Devaswom Board can remove a Karanma employee for bad conduct only after finding him guilty in a proper disciplinary proceedings—Rules regarding Karanma Service (Kerala)— Rules 12 and 13.

Ashok Kumar, G. v. Travancore Devaswom Board I.L.R. 2014 (1) Kerala ..151

**Young Persons (Harmful Publication) Act, 1956 (Central Act 93 of 1956)**—Section 3(1)(b)—Neither the Copyright Act nor the Young Persons (Harmful Publication) Act, specifies a Sessions Court as a Special Court for trial of offences under the respective Acts—Only if a child or child's right is affected, the Special Court constituted under Section 25 of the Protection of Child Right Act, will have jurisdiction to try the offences—Commission for Protection of Child Right Act, 2005 (Central Act 4 of 2006)—Section 25—Copy Right Act, 1957 (Central Act 14 of 1957)—Sections 51, 63 and 68 A.

Suo Motu v. Thomson I.L.R. 2014 (1) Kerala . . . 945

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