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Subject : The Code of Civil Procedure


Unit- I Concepts


Topic : Distinction between decree and judgment

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# Distinction between decree and judgment-

- ❖ Section 2(9) “Judgment” means the statement given by the Judge of the grounds of a decree or order;
- ❖ Judgment means according to Section 2(9) of the Code, “the statement given by the Judge of the grounds of a decree or order.” The essential element of a judgment is that there should be a statement of the grounds of the decisions.
- ❖ An order of Election Tribunal under Section 98 of the Representation of Peoples Act, 1952 containing reasons for the decisions is a judgment.
- ❖ The term judgment as defined under Section 2(9) of the Code is not the same as else where. In England the word judgment is generally used in the same sense as a decree in this Code.
- ❖ The meaning of the word judgment in Civil Procedure Code is not helpful in ascertaining meaning of the word under Section 10 of Delhi High Court Act. Similarly this definition does not apply to the word as occurring in the Letters Patent.

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- ❖ Where two judges constituting a Division Bench give contradictory decisions or decisions in variance with each other, then as held by a Full Bench of Allahabad High Court in M/s Shriram Industrial Enterprises Ltd. V/s Union of India in law, such decision cannot be called as judgments as they do not decide any question or issue in the case or proceedings in which it is made.
  - ❖ In such a situation the decisions rendered will only amount to opinions of the respective judges.
  - ❖ The term “judgment” as occurring under Article 133 of the Constitution of India also has a different sense than used under present Section.
  - ❖ An order under Order I, Rule 10 of the Code by single Judge directing Plaintiff to implied a person as defendant affects vital and valuable right of plaintiff. Hence it amounts to a judgment and appeal is permissible against such order.




# Every judgment (other than one of a Court of Small cause) should contain

- A concise statement of the case.
- The points of determination.
- The decision thereon
- The reason for such decision.



Judgment of a Court of Small Cause should contain the points of determination and the decision.

- ❖ A mere order deciding the matter in dispute not supported by reason is no judgment.
- ❖ Judge refusing leave in second appeal-it is neither order nor judgment.
- ❖ Short hand note dictated by a judge but never approved cannot be part of actual judgment.

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- ❖ The orders that are sketchy and are not self contained, neither appreciable by the Appellate Court nor by Revisional Court without examining all the records, cannot be said to be judgments.
  - ❖ In other words, sketchy orders which are not self contained and cannot be appreciated by an Appellate or Revisional Court without examining all the records are, therefore unsatisfactory and cannot be said to be judgment in that sense.



**Thank You**