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1. SC rejects application of 'eggshell skull' rule in a case: What is this legal principle?

Why in News?

Underlining that the state and central consumer courts incorrectly applied the 'eggshell skull' legal principle, the Supreme Court recently restored the compensation of Rs 5 lakhs awarded by the district consumer forum in a medical negligence case.

What is the 'eggshell skull' rule?

The eggshell skull rule is a common law principle applied in civil litigation. Essentially, when the offender would be liable for all injuries that might be intensified due to the peculiar conditions of the injured person that the offender might not have known. Simply put, the defendant would be held responsible for injuries caused to a person when he hit him on the head, even if the victim had a particularly delicate skull or an 'eggshell' for a skull.

"[A] person who has an eggshell skull would be more severely impacted by an act, which an otherwise "normal person" would be able to withstand," the SC said in its judgment of the case.

The rule is applied for claiming an enhanced compensation — for damage that is more than what could have been ordinarily anticipated to be caused by the defendant.

What was the case?

'Eggshell Skull Rule' to be applied in Medical Negligence
Cases of victims with pre-existing vulnerability or
medical condition: Supreme Court



Justice Sanjay Karol • Justice Aravind Kumar

In 2005, one Jyoti Devi went in to have her appendix removed in a hospital in Himachal Pradesh's Mandi district. Though the surgery was as planned, her abdominal pain would not subside. What followed was a four-year ordeal and several hospital visits. Ultimately, doctors at the Post Graduate Institute of Medical Science,

Chandigarh, found that "a 2.5 cm foreign body (needle)" was left behind in her abdomen, which needed to be surgically removed.

When Jyoti moved the district consumer forum for compensation, she was awarded Rs 5 lakhs for medical negligence by the hospital in Mandi. However, when the hospital appealed against the order, the state consumer forum reduced the compensation to Rs 1 lakh and the National Consumer Disputes Redressal Commission (NCDRC) enhanced it to Rs 2 lakh.

The case reached the SC which restored the district forum's decision on compensation and said that the other two courts had awarded a "paltry" and "unjust" sum even while they applied the eggshell skull rule.

What did the SC rule?

The SC held that the eggshell skull rule would not apply in Jyoti's case since the facts of the case do not indicate that she had a "pre-existing vulnerability or medical condition, because of which the victim may have suffered 'unusual damage'." The court noted that the NCDRC had simply mentioned the rule but was "silent as to how this rule applies to the present case." The ruling stated the two factors necessitated enhancing the compensation: Jyoti had suffered pain for more than 5 years and the case took more than a decade to be decided.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express

2. Covishield could cause blood clots in very rare cases

Why in News?

Global pharmaceutical giant AstraZeneca has said that its AZD1222 vaccine against Covid-19, which was made under licence in India as Covishield, could cause low platelet counts and formation of blood clots in "very rare" cases.

AstraZeneca has accepted a link between the vaccine and Thrombosis with Thrombocytopenia Syndrome (TTS), a medical condition characterised by abnormally low levels of platelets and the formation of blood clots.

AstraZeneca's vaccine formula was licensed to Pune-based vaccine maker Serum Institute of India (SII) during the coronavirus pandemic for the manufacture of Covishield. More than 175 crore doses of Covishield have been administered in India.



What exactly has AstraZeneca said?

AstraZeneca spoke about TTS in court documents following a suit brought against the company in the United Kingdom. The pharmaceutical giant is being sued over health claims related to the vaccine that it developed in collaboration with the University of Oxford amid the Covid-19 pandemic in 2020.

The case was lodged last year by Jamie Scott, a father of two, who was left with a permanent brain injury after developing a blood clot after he received the vaccine in April 2021.

The report said that in all, "fifty-one cases have been lodged in the High Court (in the UK), with victims and grieving relatives seeking damages estimated to be worth up to £100 million".

In court documents from February, AstraZeneca denied that "TTS is caused by the vaccine at a generic level". However, it admitted to the possibility of TTS as a result of its vaccination in "very rare cases".

Why have these concerns surfaced now, four years after the outbreak?

These concerns have in fact, been reported earlier. But this is the first time that AstraZeneca has confirmed the link between TTS and its vaccines.

Before the Covid-19 vaccines were rolled out in India, the Indian government had issued a fact sheet in January 2021, in which it specifically said that Covishield (the Indian variant of AstraZeneca's vaccine) should be given with "caution" to individuals with thrombocytopenia, that is, a condition of low platelet counts. Covishield and Covaxin were the two Covid vaccines given to Indians.

Were incidents of blood clots reported in India as well?

The Indian government said in May 2021 that 26 potential thromboembolic events, or formation of clots in blood vessels, had been reported since Covishield began to be administered.

In the case of Covaxin, which was India's indigenous vaccine manufactured by Bharat Biotech, it said "no potential thromboembolic events" had been reported.

The Ministry had added that scientific literature suggests "this risk (of blood clotting) is almost 70% less in persons of South and Southeast Asian descent in comparison to those from European descent".

In 2023, the WHO incorporated vaccine-induced immune thrombotic thrombocytopenia (VITT) into its classification of TTS.

Relevance: GS Prelims & Mains Paper III; Science & Technology

Source: Indian Express

3. Why can accused persons in prison contest polls but not vote?

Why in News?

Last week, Amritpal Singh, the jailed head of the pro-Khalistan outfit Waris Punjab de, announced his intention to contest the Lok Sabha elections from Punjab's Khadoor Sahib seat, to be held on June 1.

Though his ability to campaign may be limited, his right to contest polls while facing criminal charges will not be under question unless he is convicted. However, he will be bared from casting his vote in the upcoming elections — much like other accused people in prisoners across India.

What is the legal status of the right to vote and the right to be elected? How does the law deal with voters and candidates who are imprisoned?

Bar against contesting elections only after conviction

Section 8 of the Representation of People Act, 1951 (RP Act) is titled "Disqualification on conviction for certain offences". Suppose a person is convicted of any of the offences in the exhaustive list provided in the provision. In that case, they will be disqualified from contesting elections to Parliament or state legislatures from the date of conviction onwards and face further a six-year disqualification from contesting in elections beginning from the date of their release.

This disqualification only kicks in once a person has been convicted and does not apply if they have only been charged with criminal offences.

Exceptions to disqualification

The Election Commission of India (ECI) is empowered under Section 11 of the RP Act to "remove" or "reduce" the period of disqualification. In 2019, the ECI used this power to reduce the period of disqualification faced by Sikkim Chief Minister Prem Singh Tamang who was released following a one-year prison sentence in 2018 for misappropriating funds in the procurement of cows. The Sikkim Krantikari Morcha leader went on to win in the bye-election for the Poklok Kamrang assembly seat.

Another situation where a disqualified MP or MLA can still contest is when their conviction is stayed on appeal to a higher court. In 2019 the Supreme Court held that once a conviction is stayed "the disqualification which operates as a consequence of the conviction cannot take or remain in effect".

Dhananjay Singh, a former Bahujan Samaj Party MP whom a district court convicted for kidnapping in 2020, approached the Allahabad HC for a stay on his seven-year sentence which would allow him to contest in Lok Sabha elections. However, though the court granted bail, the court refused to stay the conviction stating that "it is the need of the hour to have purity in politics".

Bar against the right to vote for confined persons

Section 62 of the RP Act provides a series of restrictions on the right to vote including sub-clause (5) which states in broad terms "No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police".

With an exception provided for those in preventive detention, this provision effectively bars every individual who had criminal charges framed against them from casting their vote unless they have been released on bail or have been acquitted.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express