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## NEWSLETTER

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### DEBT RECOVERY TRIBUNAL DOES NOT HAVE POWER TO CONDONE DELAY IN FILING APPEAL

**Court:** The Supreme Court of India

**Date of Judgement:** 24th October, 2017

**Case No.:** Civil Appeal No. 16962 of 2017

The question raised before the apex court in this case was whether Section 5 of the Limitations Act, 1963 could be invoked in order to condone a delay beyond the prescribed period of 30 days u/s 30 )1( of the Recovery of Debts and Bankruptcy Act, 1993. Section 5 of the Limitations Act, 1963 states that any appeal or any application may be admitted after the prescribed period if the appellant or the applicant satisfies the court with sufficient cause to justify the delay. The Court observed that the definition of 'application' u/s 2)b( of the Act, was confined to section 19)b( of the Recovery of Debts and Bankruptcy Act, 1993. Referring to Sec 5 of the Limitations Act, the Court was held that under the Act, proceedings that were conducted before a statutory tribunal could not be held at par with the proceedings of any court. Hence the Tribunal would not have power to condone delay unless it has been expressly provided by the Statute creating it.

## NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION CANNOT DISMISS COMPLAINT ON REVISION PLEA

**Court:** The Supreme Court of India

**Date of Judgement:** 12th October, 2017

**Case No.:** Civil Appeal No. 16814 of 2017

The Supreme Court was approached on the issue as to whether a complaint can be dismissed by the National Consumer Disputes Redressal Commission in case a plea for revision is made for enhanced compensation. In the present case, the Complainants had jointly applied for a commercial property from the Respondent. The consideration for the same which amounted to Rs. 4, 80,000/- was paid by the complainants. When the respondent failed to hand over the possession of the said property, the complainant approached the State Forum which directed the immediate handover of possession. But the respondent had already sold the said property to another party. The State Forum directed the respondent to return the money to the complainant within one month. Since the State Forum had not awarded interest on the said amount, the complainant filed a Revision Petition before the NCDRC. The NCDRC in turn dismissed the petition on the ground that since this was a commercial property which was in dispute, the same could not be addressed in this forum. The Supreme Court held that since this defense was not raised by the respondent before any forum, and also because the respondent had not challenged the order of the State Forum, the complaint could not have been dismissed by the NCDRC on the said ground.

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## IN APPROPRIATE CASES, DELAY IN SEEKING COMPENSATION FOR LAND ACQUISITION CAN BE CONDONED

**Court:** The Supreme Court of India

**Date of Judgement:** 27th October, 2017

**Case No.:** Civil Appeal No. 17323 of 2017

In this case the Supreme Court has stated that delay in seeking compensation against land acquisition can be condoned in appropriate cases. The issue herein involved the petitioner claiming compensation which was at par with that received by others under the same notification u/s 28A of the Land Acquisition Act, 1894. The prayer of the petitioner was dismissed on the ground of delay. The Supreme Court in this matter opined that even though, limitation period is prescribed in such matters and it is expected of any aggrieved person to avail the remedies within such prescribed time limit, but in appropriate cases, an exception can be made and delay in this regard can be condoned.

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## TEMPORARY, AD-HOC AND CONTARCT STAFF ELIGIBLE FOR MATERNITY LEAVE

**Court:** The Central Administrative Tribunal

**Date of Judgement:** 12th October, 2017

**Case No.:** O.A. No. 3734/2015; M.A. No. 1596/2016

The Central Administrative Tribunal while deciding a matter this case has held that ad-hoc employees were well within the rights to demand maternity leave. The court in this regard opined that though ad-hoc employees do not enjoy same benefits as the permanent employees but maternity leave could not be compared to any normal benefit. Thus with regard to the nature of benefit, maternity leave could not have been routinely clubbed with any other benefit and had to be granted to any employee irrespective of the fact as to whether she is a permanent employee or merely an ad-hoc or temporary employee.

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## DAMAGES CANNOT BE CLAIMED AS A ROTUINE IN CASE OF ARBITRAL PROCEEDING

**Court:** The Delhi High Court

**Date of Judgement:** 17th October, 2017

**Case No.:** FAO (OS) (COMM) 143/2017; C.M. APPL. 25112/2017

The Delhi High Court has opined that for damages being awarded in case of any Arbitral proceedings, there has to be sufficient proof for damages. Such was said in the case wherein the Appellant challenged the order of the Tribunal to grant damages for loss of profits suffered. The High Court had stated that damages cannot be offered as a matter of course. Also for damages to be offered in case of any Arbitral Proceeding, there has to be "worthwhile evidence" to support the issue. Much like in case of civil matters, in arbitral proceedings a party cannot claim damages merely by citing losses in profits unless there is substantial evidence to back such a claim.

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### Legal Update

- Ministry of Corporate Affairs vide its circular No. 14/2017 dated 27<sup>th</sup> October 2017 extended time to file e-form AOC-4, AOC-XBRL upto 28/11/2017 without levying additional fees.  
[http://www.mca.gov.in/Ministry/pdf/GeneralCircular14\\_28102017.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircular14_28102017.pdf)
- The Central Government appointed the 18<sup>th</sup> October, 2017 as the date on which the provisions of Section 247 (i.e. Registered Valuers) of the Companies Act, 2013 shall come into force.

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### Prepared By:

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