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## NEWSLETTER

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### **Restriction for Remarriage under Hindu Marriage Act primarily Applicable for Parties Contesting the Decree of Divorce**

Appellant: NOT MENTIONED	Court: <b>The Supreme Court of India</b>
	Date of Judgement: 24 <sup>th</sup> August 2018
Respondent: NOT MENTIONED	
	Case No.: Civil Appeal No 18312 OF 2018

The Supreme Court has delivered an important judgment qua the provision in the Hindu Marriage Act which puts a condition on a divorcee in contracting a second marriage.

It has been held that the protection that is afforded by Section 15 of the Hindu Marriage Act is primarily to a person who is contesting the decree of divorce. The bench comprising Justice SA Bobde and Justice L. Nageswara Rao has observed that restriction placed on the second marriage in Section 15 of the Act till the dismissal of an appeal would not apply to a case where parties have settled and decided not to pursue the appeal.

## Accused Entitled to Acquittal if Informant and Investigating Officer is the Same Person

Appellant: Mohanlal	Court: <b>The Supreme Court of India</b>
	Date of Order: 16 <sup>th</sup> August 2018
Respondent: State of Punjab	Case No.: Criminal Appeal No. 1880 of 2011

Justice Navin Sinha Observed: “If an informant police official in a criminal prosecution, especially when carrying a reverse burden of proof, makes the allegations, is himself asked to investigate, serious doubts will naturally arise with regard to his fairness and impartiality. It is not necessary that bias must actually be proved. It would be illogical to presume and contrary to normal human conduct, that he would himself at the end of the investigation submit a closure report to conclude false implication with all its attendant consequences for the complainant himself. The result of the investigation would therefore be a foregone conclusion”.

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## Supreme Court Upholds Conviction of Man Whose Extramarital Affair Abetted wife’s suicide

Appellant: Siddaling	Court: <b>The Supreme Court of India</b>
	Date of Order: 09.08.2018
Respondent: The State through Kalagi Police Station	Criminal Appeal no. 1606/2009

The bench also refused to reduce the sentence imposed on the accused. The bench said: "Keeping in view the fact that within four months of her marriage, the deceased-Kavitha has taken the extreme step of putting an end of her life and also within three months of convening the panchayat, the deceased Kavitha has committed suicide, showing any leniency would be a misplaced one".

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**No Forfeiture of Gratuity For 'Acts Involving Moral Turpitude', if not Convicted by a Court of Law**

Appellant: Union Bank of India and Ors	Court: <b>The Supreme Court of India</b>
	Date of Order: 14.08.2018
Respondent: C.G Ajay Babu and Another	
	Civil Appeal no. 8251/2018

Interpreting Section 4(6)(b)(ii) of the Payment of Gratuity Act, the Supreme Court has held that forfeiture of gratuity on the ground of misconduct which constitutes an offence involving moral turpitude, is permissible only if he is convicted by a court of competent jurisdiction for the said offence. "To be an offence, the act should be made punishable under law. That is absolutely in the realm of criminal law. It is not for the Bank to decide whether an offence has been committed".

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## **No Appeal against Decree/Order in 'Section 6 Suit' for Recovery of Possession**

Petitioner: Jaswant Singh	Court: <b>The Supreme Court of India</b>
	Date of Order: 27.08.2018
Respondent: Punjab Agriculture University and Ors	Special Leave Petition (CIVIL) Dairy no. 24044/2018

The Supreme Court, while dismissing a special leave petition, reminded the courts that 'Section 6 Suit' is of summary nature and no appeal lies against it. Apex Court Observed, "It is surprising that in a Section 6 Suit, appeals have solemnly been filed and heard on merits. 'What is even more surprising is that from the first appeal dismissal, a second appeal is also filed and dismissed'.

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### **Prepared By:**

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