



MOOT PROPOSITION

1. Shabina, resident of District Teemrana in the state of Uttar Nagar, married to Sulaiman was working in Malal Industrial Sector as a labour for the last three years. Malal Industrial Sector was one the most successful industries in Uttar Nagar and contributes to the economic welfare. When she was assigned her work, she was not confirmed as of yet, i.e 7th August, 2018. Her Supervisor, Mr. Abhinath instructed her to shift some wheat bags which were lying outside, into the warehouse of the factory.
2. She requested her supervisor to assign her some other work, since she is in family way (two months pregnancy) and her doctor had advised her not to lift heavy luggage. The supervisor was adamant and told her that it was an order from the superiors; disobeying will result in removing her from the services as she was not confirmed. Even after all the instructions, she was not willing to lift the bags, therefore the Supervisor coerced her to complete the work by 5:00 PM.
3. She had no other alternative than to execute the work assigned to her and at about 4:45 pm she was feeling tired and was also having pain in her abdomen. She approached the dispensary of the factory outlet and the doctor of the factory gave her the option of either taking some pain killer tablets (knowing the fact that she was pregnant) or resting for an hour. However she decided to take two tablets and thereafter continued with her normal work, as the pain had subsided for a few hours. When she left for her residence, she could again feel the abdominal pain which became unbearable. Then her husband and mother-in-law took her to the nearby hospital.
4. She was examined by the gynaecologist and after preliminary examination, immediately admitted her in the hospital. However, the process of miscarriage has already started and she lost the child due to threatened abortion. Her gynaecological identified the reasons for miscarriage to be the coupled effects of the pills taken by her at the factory and lifting of the heavy bags.
5. A year before this, she had suffered a miscarriage. After a month, when her health improved, her husband gave her Triple Talaq stating that she cannot become a mother. She moved to her parents' house who were quite poor and not in a position to maintain her. After her full recovery, when she reported for duty on 10.9.2018, her supervisor informed her that she had been replaced and her services were not required anymore. She was not paid any of her dues.
6. The news of this misfortune reached the registered Trade Union in the Malal Industrial Sector. The trade union called an emergency meeting and decided to hold a silent strike on the premises of the factory. The workers went on a strike and the negotiations between the management and the trade union failed, leading to a lock out decided by the management.

7. Thereafter when the Trade Union found out that Shabina had taken the pills given by the doctor who was aware that she was pregnant, few Union members were agitated by this gross violation of labour laws. The next day the few angry union members started throwing stones at the bungalow of Mr. Abhinath and even broke the windows of his office. Abhinath was provoked by this and since he had a good relationship with the President of the Working regional political party, he was able to hire bouncers who used coercive force including lathi-charge on the workers, which further deteriorated the situation.
8. The Trade Union filed a suit for violation of constitutional principles under Article 21 and non-compliance of the standards set for the workers in factories and use of bouncers. In return Malal Industrial Sector filed a counter suit for attack on its supervisor and illegal strike held by the Trade Union as the industry deals with food items and is classified as essential services.
9. The court combined both the petitions and set the date for hearing on 11 October 2019. For administrative purpose, the Trade Union will be **Petitioners and Malala Industry will be Respondents.**

Issues are:

1. Whether the petition filed by the Malal Industrial Sector is maintainable?
2. Whether a person who is working in industry for 3 years, can be denied the rights as defined u/s 9 of The Maternity Benefit Act, 1961 (i.e. leave for miscarriage) & then financial assistance?
3. Whether there has been violation of right to life enshrined under Article 21 of The Constitution of India, 1950 or not?
4. There has been negligence on part of the trainee doctor of the dispensary of the factory by giving pain killer pills which further accelerated the process of miscarriage. Who would be liable to pay compensation and whether the act of the supervisor is valid or not?
5. Whether miscarriage can become a reason for justifying Triple Talaq?
6. Whether the strike by the workers and the lock-outs on part of the factory is justified?
7. Whether Shabina has the right to claim compensation for the sufferings caused due to the harsh, negligent and unlawful act of the industry?

(The laws of Uttar Nagar are *pari materia* to the Laws of India)