

CENTRE FOR AEROSPACE AND DEFENCE LAWS (CADL)
NALSAR University of Law
Hyderabad

M.A. (Aviation Law and Air Transport Management)
&
Post Graduate Diploma in Aviation Law and Air Transport Management

GUIDELINES FOR CASE LAW REVIEW IN DOMESTIC AIR LAWS IN INDIA

Purpose of writing Case Law Review:

Case law review provides academic insight into judicial decisions. They are useful to, amongst others, practitioners and those working in the Aviation sector who may not have the time to read and understand the case in depth; to other academicians studying in related areas; to the judiciary to assist them in proper adjudication of cases and to students researching in the area and other stakeholders. A proper review of case law helps to give practical exposure to different dimensions of aviation law including consumer protection, insurance, environment, liability, dispute resolution system, *etc.*

A case law review also provides a brief analysis of a case, identifying and examining the key elements of the decision, as well as placing the case in its wider legal and social context and perspective. The ability to write a clear and succinct case review is useful in and of itself as a legal skill, particularly in common law legal systems which operate as a doctrine of Judicial precedent whereby judicial decisions form part of the law of the land.

In order to write a case note it is necessary to learn how to deconstruct a legal argument set out in a judicial decision and identify various parts of the judgment. The various parts serve different purposes. The students are required to study the original judgment of the case and put in their own words.

Guidelines for Case Law Review:

1. Each student has to submit one Case Law Review.
2. The Case Law Review should be a complete original work of the student. The maximum limit for **plagiarism is 15%** and if any work is found to be in excess of this prescribed limit then the concerned student would be asked to re-do their work.
3. One student should work individually on one Case Law Review. Co-authored or multiple authored Case Study Report will not be accepted.
4. Each Case Law Review carries 30 Marks.
5. **Format of the Case Law Review:** The format has been herewith attached as Annexure I. As per the format given the review should mandatorily contain the following components which will precede the content of the case law review :

Cover Page

Table of Contents / Index

Table of Cases Referred

Table of Statutes

6. **Content of the Case Law Review:** The Case Law Review shall contain the following Seven Components/Chapters:

- a. *Chapter I - Introduction:* The researcher is required to introduce the case, highlight the background of the case, the subject of law related to it (domestic/international regime) and brief description of the issue(s) involved in brief. The researcher is also required to highlight its legal significance – what did it change? Perhaps offer some context, such as prior law it affected. The researcher in this part is required to outline whether he/she think the case was indeed correctly decided or not – and list the reasons cogently. A good introduction is succinct, compelling and provides a ‘bird’s eye view’ of the whole argument.
- b. *Chapter II - Facts of the Case:* The research needs to start by setting out the factual matrix of the case that one need to know in order to understand the case. If one is dealing with an appeal case then he/she is required to summarise the history of the case from the Courts below. The researcher is required to briefly explain the issues before the Court and the findings of each of the Courts below and the basis of each of the findings.
- c. *Chapter III - Issues:* In this part, researcher is required to set out the legal issues (or questions of law) that were discussed in the case. One needs to understand the difference between questions of law and questions of fact. Questions of law address how the law can be applied to the facts of the case (e.g. whether hitting someone amounts to battery), while questions of fact address what actually happened (e.g. whether there is evidence to show that the defendant did actually hit the victim). The researcher is likely to be interested in questions of law for the purposes of legal studies.
- d. *Chapter IV - Judgment:* The researcher needs to explain how the judge(s) reached their decision, analysing their use of precedent, statute and/or policy considerations. One needs to be sure to highlight any dissenting judgments or differences of opinion among the judges. One also need to identify the *ratio decidendi* and any *obiter dicta*. The *ratio*(nes) is the reason(s) for the decision, i.e. the legal principle which, when applied to the facts of the case, led the judge(s) to reach their decision. Comments made *obiter* are points of law that are not necessary to decide the outcome of the case on hand, but they could be influential in future cases (and can provide a starting point for the next section)
- e. *Chapter V - Reasoning or Analysis:* In this section researcher is required to describe and critically analyze the Court’s reasoning and decision. The researcher is required to present in its full context the law as he/she contends it is or ought to be. If appropriate, one can attempt to predict the impact the case will have on future decision. Furthermore, researcher is also required to address ambiguous statements, if any, made by the Court and questions, if any, that the Court left unanswered. This

section affords an opportunity to demonstrate legal skill and prowess by dissecting the case and raising important issues involved.

- f. *Chapter VI - Contribution of the Case to the growth of Aviation Law:*The researcher in this section is required to evaluate the significance of the case law in the Aviation Industry. Researcher also needs to highlight the contribution of the case in the development of Aviation law.
- g. *Chapter VII - Conclusion:*The conclusion is a very brief two-part summary of your comment. The first part should outline the problem posed in the main case. The second part should state and defend your analysis. After the reader skims your introduction and your conclusion, she or he should be able to understand the issues raised in the main case, the Court's finding, and your analysis.

Please Note that Depending on the nature of the case. inclusion of additional elements like comparative analysis with laws of other Countries may be insightful and useful.

- 7. **Footnotes and Bibliography** format should be strictly adhered to. Footnotes should be placed at the end of the page. Bibliography should come at the end of the Case Law Review. PPTs for footnotes and bibliography have been attached herewith as Annexure II.
- 8. For collecting case judgment/case summary candidates can rely on web sources such as Manupatra and SCC Online (to be accessible through nalsar login id and password), Supreme Court Website for cases, *etc.*
- 9. **Main Text:** Font: Times New Roman, Size: 12, Spacing: 1.5, Alignment: Justified.
Chapter Heading: Times New Roman, Size: 12, Spacing 1.15, Alignment: Justified.
- 10. **Word Limit of Case Law Review:** 3,000 – 4,000 words
- 11. **SUBMISSION BEYOND THE TIMELINE WILL NOT BE ACCEPTED.**
- 12. All submissions shall be made online and send to casl.aviation@gmail.com before the designated date and time.