Writing Case Brief/Summary **Indian Case Laws** © Indian Case Laws I The present guidelines are copyrighted to Indian Case Laws. Unauthorized use and/or duplication of the same without express and written permission from Indian Case Laws is strictly prohibited. The work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License.

WRITING CASE BRIEF/SUMMARY

What is Case Briefing?

Case briefing is a way of presenting a case in a systematic way in order to determine the most relevant facts, identify the legal issues involved, arguments from the opposite parties and contention wise brief discussion of the judgement. The discussion on the judgement must also set out the reasoning behind the decision and dissenting opinion, if any.

Reading a Case

Before reading a case, it is beneficial to have an idea as to what topic or specific legal issue the case falls under, why you are reading that case or what answer you are going to seek in the case. It also helps to sieve out irrelevant details and overlook issues not relevant to the legal question you are concerned about. For instance, if you are reading a case on contract law you can simply ignore the constitutional or evidence law aspect of that case without even mentioning it in your case brief.

For a longer case, it is always a good idea to read a summary of the case first either from the case notes itself or from other web resources, if available. Also, while reading the case, you can work through the judgment in sizeable chunks and skim through the judgment looking for the most relevant parts which answer your questions. It is advisable to slow down your pace while going through these relevant parts in order to grasp the legal principles and their application in the factual matrix of the case.

Writing a Case Brief

The best way to understand a case is to write a case summary of it. It clears all the stumbling blocks in your mind with the result being a clear understanding of the judgement which is always easy to remember. Writing a case summary forces you to ask yourself key questions and find the answers to the same through the entire process of writing the case brief. It helps you to develop a better grasp of the contents of the decision, learn application of the legal principles, recall them quickly and make critical remarks.

What are the various components of a case brief?

- 1. Title and Citation
- 2. Relevant Facts
- 3. Issues
- 4. Contentions
- 5. Issue or contention wise judgement with reasoning
- 6. Concurring/Dissenting Opinions (if any)
- 7. Law Points/Rule of Law
- 8. Analysis/Conclusion

Title and Citation:

The title of the case tells you the names of the parties to the case. Usually, the party initiating a legal action i.e. plaintiff or, the party going for an appeal i.e. appellant appears first in the title of the case. Citation of the case helps the reader to find the full judgement.

Relevant Facts:

Summarising the elaborate facts of a case succinctly is the most difficult part of writing a case brief. The most challenging task here is to determine precisely which facts can be excluded from the case brief. While there is no definite formula for the same, there are certain guidelines which can help us in this regard.

1. Reduce that extra flab: The entire objective of preparing a case brief is to present the case in the most lucid and simplified manner keeping it very precise and to the point. Therefore, facts with unnecessary detail must be burnt out from the brief so that the final statement of facts lose any extra flab and attains the perfect zero figure. This can be done by cutting down on the use of proper nouns and irrelevant dates and figures. For instance, use of terms like "the Plaintiff" or "the Defendant" to describe the parties would suffice in order to convey all the relevant facts without mentioning their names. You also need to figure out if details like whether the car used for kidnapping was an Ambassador or a Maruti Van or whether the incident took place on a highway or a city lane are at all relevant.

- 2. How can you burn those extra calories: Legally relevant facts are what a dietician would advise you to include in your facts diet. You can determine the relevance of a particular fact on the basis of its bearing on the legal issues involved and outcome of the case. Also, there is a possibility that a case may contain certain disputed facts. You can simply ignore that and only refer to the facts as resolved by the court to be true. Also you must be careful as to include all the key words used in the court's analysis into the "statement of facts".
- **3. Bare Bones:** Statement of facts should set out the nature of the litigation, parties involved, cause of action, relevant laws or key words involved and the course of decision through lower court/s to the present court. To sum up, here you need to answer five relevant questions
 - 1. What is the nature of the litigation?
 - 2. Who is asking this particular court for what?
 - 3. Why did they sue?
 - 4. What are the relevant laws in question?
 - 5. What has been already decided so far?

Issues

Here you try to identify the issues or questions judges explicitly set apart to discuss and decide upon. This part of the case brief should be framed in terms of questions. The issues should never be fact-specific. **Each issue should ideally be no longer than a sentence.**

Contentions

Here you list out all the contentions raised by both the parties to prove their case. Corresponding contentions of opposing parties should be clubbed together.

Holdings

The decision or holding should be framed in the order of issues or contentions in separate paragraphs. The holding in each paragraph must be backed up by the rationale given by the Court and explain the application of the legal principles in the given set of facts. In this

section you need not refer to all the previous judgements the court relies upon or dissents with. The outcome of the case and procedural disposition (i.e. reversed and remanded, affirmed, etc.) should form the last sentence of this part of the case brief.

Concurring/Dissenting Opinion

There may be cases where one of the judges may differ from the majority opinion. In that case, it is important to write the dissenting opinion. However, you should make sure that the dissenting opinion should be as crisp and precise as possible. There may also be a case in which even though a judge concurs with the other judges he/she may reason differently to reach the same outcome. In that case, it is also important to mention the concurring opinion.

Law Points/Rule of Law

Here you should try to list out all the relevant legal principles used in the judgement as its basis. You will be able to do it only when you have read the judgement in its entirety. The legal principles should be framed as a declarative statement and must not be fact-specific.

Analysis/Conclusion:

Here you are required to analyse the significance of the case. Its relationship with similar cases decided in the past may be discussed, only if something new has come out in the present case. You can also discuss what the case reflects of the judiciary, their approach, problems (if any) with the judgement, its long term impact etc. The following four questions¹ can help you determine what to write in this section -

- Was the court's decision appropriate?
- Does this decision change/conform with existing law? Was the reasoning consistent with previous reasoning in similar cases? Is it likely that the decision will significantly influence existing law?
- Did the court adequately justify its reasoning? Was its interpretation of the law appropriate? Was the reasoning logical /consistent? Did the court consider all/omit

¹Writing Law case notes available at https://academicskills.anu.edu.au/node/125

some issues and arguments? And, if there was omission, does this weaken the merit of the decision?

• What are the policy implications of the decision? Are there alternative approaches which could lead to more appropriate public policy in this area?

Precautions:

- Never try to prepare a brief until you have read the case thoroughly at least once.
- Beware of copying the court's rendition of the facts verbatim into your statement of facts.
- Never simply refer to the parties as "plaintiff" and "defendant" without first indicating which party is the plaintiff and which is the defendant.

See sample case summaries – [click to access]

Byrne v. Boadle

Carlill v. Carbolic Smoke Ball Company

Roe v. Wade

Near v. Minnesota

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