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Exploring The Law Of Unjust Enrichment In India

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The principle of unjust enrichment is an underlining principle behind a plethora of daily orders and judgments of our judiciary. Though the principle may not be tagged specifically by our Courts in each case, its adaptation has found wide usage in our judiciary to bring justice and uphold the pillars of equity.

What is the principle of Unjust Enrichment?

A person who has obtained a benefit at the expense of another should be liable to retribute the other from whom he has gained. This field of law is popularly known as the Law of restitution.

Essentials of a claim of Unjust Enrichment:

1. The defendant was enriched
2. At the claimants expense
3. There was no legal valid basis for the defendants receipt of the benefit as the same was not a gift
4. There exists no defense to the claim

Few simple examples to understand the Law of Restitution

The liability under the law of Restitution comes neither as a result of consent (Contract) nor as a result of wrongdoing (tort) but as an independent category of cause of action. It is easier to understand the use of this principle through some examples Should a third party be liable to return the money where bank pays money to a third party on behalf of its client because of a mistaken belief that it had been authorised to do so by the client? Even though there is no contract between the third party and the bank, the third party that has been enriched at the expense of the bank should return the money due to the principles of law of unjust enrichment. A similar example will be when a teacher is paid her salary twice in the same month due to a mistake by the school. Should she not return the unjust benefit derived at the expense of the school?

Another example will be where an employer paid tax on behalf of the employee as required by him under the statutory framework. The employer had to deduct the salary of the employee but the employee left the firm and the employer is unable to recover the amount. Under the law of restitution, it is clear that the employee has been unjustly enriched at the expense of the employer and hence is liable to retribute the employer for the tax paid.

There are other interesting situations where one can contemplate the applicability of the principle. When "A" makes a claim in court to recover a debt and spends certain sum of legal expenses on the same. However, the Court rules that the debt is owed to "B" and not "A". Can "A" recover the legal expenses spend by him from "B" as "B" has been enriched by the Court order at the legal expense of "A"?

There are many such enthralling questions that are raised within the four corners of our Courts where the outcome of the case depends upon the discretion of the judges and their sense of equity than any settled principles. This facilitates a need to further traverse the law of unjust enrichment and understand its wide applicability.

Applicability of the Principle in India

Section 68-72 of the Indian Contract Act, 1872 has partially dealt with the law of restitution but there is much fine-tuning needed in understanding its myriad facets.

Section 70 specifically deals with obligations of a person enjoying the benefit of a non-gratuitous act. In ***State of West Bengal Vs B.K. Mondal and Sons, AIR1962SC779***, three conditions were laid down to invoke section 70 which prevents unjust enrichment:

1. The first condition is that a person should lawfully do something for another person or deliver something to him.
2. The second condition is that in doing the said thing or delivering the said thing he must not intend to act gratuitously
3. The third is that the other person for whom something is done or to whom something is delivered must enjoy the benefit thereof

In ***Mafatlal Industries v. Union of India, (1997) 5 SCC 536***, a nine bench of the Supreme Court elaborated on the law of unjust enrichment and used it to affirm the right of an assessee to recover the excess taxes that was paid by him under mistake of law. However, if the assessee has passed the burden to the customer then the same cannot be refunded as the assessee cannot be allowed to make a profit under the law of restitution.

In ***Indian Council For Enviro-Legal Action Vs Union Of India & Ors, (2011) 8 SCC 161***, the Supreme Court applied the law of unjust enrichment to a case relating to environment law where the polluter (chemical industries) was required to pay remedial costs along with compound interest for having been enriched at the expense of the public.

It is interesting to note how the use of the principle permeates through divergent cases. In ***Noor Mohommad v Mohammad Jiajddin, AIR 1992 MP 244***, a Muslim groom refused to take his wife post solemnization of marriage. The law of restitution was used to retribute the father's bride of the expenses he had incurred for the wedding as the same were not incurred gratuitously but for consideration of marriage.

Though the world has been conflicted with accepting the Doctrine of Unjust Enrichment and many theories of jurisprudence in the area have been rejected, India needs to discuss this field with greater vigor to prevent inconsistent results.

There are many grey areas that the foreign courts are grappling with to further tweak the nuances of the law of restitution. Questions regarding the relationship between contract law and law of restitution, ignorance being a valid ground of restitution, whether voluntariness defeats restitution claims, payments under ineffective contracts, restitution from public authorities etc are constantly being debated along with the various defenses to restitutionary claims. It is imperative that our Courts further elaborate on setting the building blocks for this area of jurisprudence to develop in India.



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