CHAPTER-VI
JUDICIAL RESPONSE TO GENDER DISCRIMINATION IN INDIA

The Constitution of India is the incomparable authoritative report, which guarantees correspondence freedom and pride to both the genders. To guarantee these ensures, the Indian Constitution killed all separations in light of standing, ideology, sex or religion. It acknowledged on a basic level the uniformity of men and ladies. It offered energy to the state to make exceptional arrangements for ladies. These sex particular arrangements are contained in Articles 14, 15 and 16 of the Constitution. Different arrangements about ladies were entrusted to the part which contains the Directive Principles of State Policy. The supremacy of the Constitution in India is fully established and every authority – be it legislative, executive or judicial – derive their powers from the Constitution. But it can be said that the constitutional provisions are dead letters without their proper meaning and interpretations. They are like big strokes on a vast canvas. This responsibility of explaining the true meaning and interpretations of the Constitutional provisions have been vested on Judiciary.

Legal is the most vital and one of the fundamental organs of the administration. It goes about as a watchman of the Constitution and is endowed with the duty of deciphering and authorizing the law of the State. With respect to part to be played by Courts, Attorney General, M. Setalvad, on the event of the initiation of Supreme Court of India on 28th January 1950 stated: “The task before us all is the building of a nation alive to its national and international duties, consisting of a strong central authority and federal units, each possessed of ample power for the diverse uses of a progressive people. In the attainment of this noble end, we hope and trust that this court will play a great and singular role and establish itself in the consciousness of Indian People.”

Thus, the importance of the judiciary cannot be denied. It is often said that excellence of a country’s judiciary is a measure of the excellence of its
government. Regarding the importance of judiciary, Lord Bryce has rightly said,
“there is no better test of the excellence of the government than the efficiency of its judicial system”.
He further says, 'on the off chance that the law be unscrupulously directed, the salt has lost its flavor’… ..'if the light of equity goes out in haziness how awesome is its dimness.'

The above articulations obviously uncover the significance and need of the legal in the administration. As the legal is the image of equity, it must capacity in a free and unbiased way, generally, the equity would turn into a long ways for the natives of the nation. Additionally, the legal must be receptive to the adjustments in Indian culture. The law, so as to hold its importance must not stay static but rather should keep pace with the changing needs of the general public or else it would turn into a kind of iron tie to keep the country at a stop position while the world walks on. In view of it is a Latin adage, boni judicis est ampliare jurisdictionem – it is the obligation of a decent judge to expand the purview.

The judges going about as mediators of the Constitution need to manage the soul of Constitution under evolving conditions. It is said that the course which the established law takes depends especially upon the social theory and viewpoint of the judges. As to, Chief Justice Patanjali Shastri stated,
"… … .in assessing such subtle factors and shaping their own origination of what is sensible, in every one of the conditions of a given case, it is unavoidable that the social theory and the size of estimations of the judges taking an interest in the choice should have a vital influence."

So the unprejudiced nature and freedom of the legal relies upon the elevated requirements of direct took after by judges. The activities of the judges ought to be straightforward and naturally stable, at exactly that point the confidence of the everyday citizens in legal can be kept up. Regarding this, Lord Denning has rightly said,
“Justice is rooted in confidence and confidence is destroyed when right minded people go away thinking that ‘the judge is biased’.”
Thus, the judges while administering justice should be as far as practicable, fair, just, unbiased and impartial. He/she should be free from any kind of external influence. In this regard, Lord Denning while praising the respectable position held by judges said,

“They (meaning judges) will not be diverted from their duty by any extraneous influences; nor by any hope of reward nor by the fear of penalties; nor by flattering praise nor by indignant reproach. It is the sure knowledge of this that gives the people confidence in judges.”

Accordingly, one might say that so as to realize compelling sexual orientation equity in the general public, it is the obligation of each individual from the legal to contribute in ensuring the human privileges of ladies so as to destroy the treachery and imbalance looked by them, prompting their abuse in the public eye.

A short overview of a couple of cases and the judgements of the Hon'ble Supreme Court and High Courts are introduced here to feature the perspectives of legal on ladies' issues and to discover to what degree the legal has been effective in rendering choices which quickened the pace of sex equity and evacuated sex separation in India.

(i) Articles 14, 15 & 16: A number of cases have come up in the Supreme Court and High Courts regarding the violation of Articles 14, 15 & 16. Some of these are:

C.B. Muthamma v. Union of India: This is one of the vital cases which feature the sexual orientation disparity and oppression ladies in government work. For this situation C.B. Muthamma of the Indian Foreign Service was separated and denied advancement to the Grade-I because of her female sex. She recorded a writ appeal to in the Supreme Court against two IFS benefit rules which were prejudicial against ladies and abused Articles 14 and 16 of the Constitution.
Under Rule 8(2) of IFS, a lady individual from the administration was required to get authorization of the Government in composing before her marriage was solemnized. Whenever after the marriage, a lady part might be required to
leave from benefit, if the legislature was fulfilled that her family and household responsibilities were probably going to come in the method for the due and productive release of her obligations as an individual from the administration. Under Rule 18(4), it was given that no wedded lady might be qualified starting at appropriate for be named to the administration.

The Supreme Court struck down the above standards on the ground that they were express biased and abused the principal right of equivalent treatment to ladies representatives in issues of open business.

The Supreme Court properly saw in such manner that, "On the off chance that a ladies part might get the authorization of government before she weds, a similar hazard is controlled by government if a male part gets a marriage. On the off chance that the family and household responsibilities of a ladies individual from the administration is probably going to come in the method for productive releasing of obligations, a comparative circumstance may well emerge on account of male part. In nowadays of atomic families, intercontinental relational unions and eccentric conduct, one neglects to comprehend the bare predisposition against the gentler of the species."

Equity Krishna Iyer obsessed about such separation, said in his apt dialect, "At the principal redden this administer is in rebellion of Art. 16 of the Constitution. In the event that a wedded man has a right, a wedded lady, different things being equivalent stands on no more terrible balance. This misogynous stance is a headache of the manly culture of manacling the weaker sex overlooking how our battle for national opportunity was additionally a fight against men's thralldom. Opportunity is indissoluble, so is equity. That our establishing confidence cherished in Articles 14 and 16 ought to have been deplorably overlooked opposite portion of India's humankind, viz., our ladies, is a tragic reflection on the separation between Constitution in the book and Law in real life."

In this manner, the request of was expelled and the Government was
coordinated to audit the position of the applicant as some of her youngsters meanwhile had been advanced over her and further, the Union government was asked to update all administration controls and erase every single oppressive condition without sitting tight for "adhoc motivation" from writ appeal.

The above choice unmistakably demonstrates the fair and sexual orientation amicable disposition of Justice Krishna Iyer, who with his Marxist foundation had no trouble in striking down the harmfully prejudicial arrangement in the IFS Rules.

**Maya Devi v. State of Maharashtra:** This is another case of discrimination against women wherein a provision requiring married women to obtain her husband's consent before applying for public employment was challenged as violating Articles 14, 15 and 16 of the Constitution.

“A civil surgeon had issued an advertisement for a training course in midwifery at the district hospital. The said advertisement had a clause which read, Married women candidates must enclose along with their application their husband’s written permission for pursuing the course.” The petitioner (Maya Devi) got the consent from her husband and joined the course. Thereafter, the husband had second thought that if she joins the training, it would disturb the family life. On being asked to produce another letter of ‘no objection’ from the husband, she moved the court and got an interim order. One seat was reserved for her and she took the training. Later on, she challenged the relevant condition in the advertisement as being wholly unreasonable and discriminatory, being violative of equality guaranteed by the Constitution.

It was argued on behalf of the State that the consent of the husband is sought because if she joins the course without his consent, it might affect the wife and consequently the course and hence, there is nothing unreasonable in the requirement.

Rejecting the argument, the court held that, “This is a matter purely personal between husband and wife and the employer has nothing much to do with it. Only because of these possibilities a valuable right to get employment cannot be denied…..It is unthinkable that in social conditions presently prevalent a
husband can prevent a wife from being independent economically just for his whim or caprice”.

Further the Court, while emphasizing the importance of economic independence of a woman said, “Economically independent woman is said to be one of the solutions to our social problem. State must encourage the working woman and can ill afford to create conditions of discouragement. Such discouragement is also to be against the letter and spirit of Art. 46 of the Constitution”.

The Court was of the view that the consent requirement was an obstacle to women’s equality. Since the male candidate was not asked to produce a similar certificate and since Maya’s appointment appear to depend solely on her husband’s written consent, this naturally amounted to discrimination purely on the ground of sex. Moreover, the Court observed that this consent requirement has no nexus, whatsoever with the object sought to be achieved here, it being the merit of the candidate as a skilled nurse.

Thus, the Court struck down the relevant clause of the advertisement declaring it as ultra vires of petitioner’s fundamental right of equality. This decision is commended to be one more advance towards fairness of genders.

Air India v. Nergesh Meerza: This is a much-distributed case, which additionally included the issue of balance amongst men and ladies. For this situation, the air masters of Air India Corporation had moved toward the Supreme Court for battling the prejudicial administration conditions in the directions of Air India. Here the conditions confined via Air India for air leaders and male stewards contained certain arrangements unfair against ladies. Directions 46 and 47 gave that an air lady would resign from the administration of the Corporation on 3 conditions –

(i) upon accomplishing the age of 35 years.
(ii) on marriage on the off chance that it occurred inside four years of administration or
(iii) on first pregnancy whichever is prior.
These guidelines were tested by certain air ladies as biased and violative of Article 14 of the Constitution as comparable arrangements did not make a difference to male stewards. While the resigning time of air entertainers was 35 years, extendable to 45 years at the alternative of Managing Director, which was a discretionary power vested in him, a male steward could work upto 58 years old.

The Supreme Court on the condition that an air leader ought not wed before the culmination of four years of administration held that the arrangements did not experience the ill effects of any sacred ailment. Concerning Justice Fazal Ali stated,

"The Regulation allows an A.H. to wed at 23 years old on the off chance that she has joined the administration at 19 years old which is by all gauges an exceptionally stable and helpful arrangement. Aside from enhancing the soundness of the representative, it enables a decent arrangement in the advancement and boosting to up of our family arranging program. Besides if a lady weds about the age of 20 to 23 years, she turns out to be completely develop and there is each possibility of such a marriage demonstrating a win, in light of current circumstances. Thirdly, it has been properly indicated out us by the Corporation that if the bar of marriage inside four years of marriage is evacuated then Corporation should bring about enormous consumption in enlisting extra A.Hs either on an impermanent or on an adhoc premise to supplant the working A.Hs on the off chance that they imagine and any period shy of 4 years would be too brief period for the Corporation to eliminate such a yearning design."

The Court held that the arrangements of Regulation 46 does not experience the ill effects of any nonsensicalness or assertion and in this manner, not violative of Article 14. Along these lines, this arrangement was maintained by the Supreme Court.

Concerning arrangement which banished pregnancy on getting hitched following four years, the Court watched that, in the wake of having taken the air entertainer in benefit and using her administration for a long time, to end
her administration on the off chance that she ends up noticeably pregnant adds up to convincing the poor air leaders not to have any kids and along these lines meddle with and occupies the common course of human instinct. The court proclaimed that the arrangement was outlandish and discretionary which shook the inner voice of the Court. In such manner, Justice Murtaza Fazal Ali has appropriately watched –

"The end of the administrations of an Air Hostess under such conditions isn't just hard and unfeeling however an open affront to Indian womanhood – the most hallowed and treasured organization. Such a strategy is to a great degree terrible and detestable to the ideas of humanized society. Aside from being horribly deceptive it bears a resemblance to profound established feeling of absolute childishness, at the cost of every single human esteem. Such an arrangement is hence preposterous and discretionary as well as contains the nature of shamefulness and displays bare tyranny and is, in this manner, obviously violative of Article 14 of the Constitution."

About the arrangement that endorsed the resigning time of Air Hostesses at 35 years, which might be stretched out to 45 years at the alternative of the Managing Director, it was contended that there were a few reasons, which incited the Management to influence the Government to make this Regulation. In addition to other things, it was fought that,

"Air Hostesses are enlisted for giving appealing and satisfying administrations to travelers in an exceedingly focused field and thus push is laid on their appearance, youth, style and appeal. They need to manage travelers of different personalities, and just a youthful and alluring Air Hostess can adapt to troublesome and unbalanced circumstances, more effectively than a more established individual."

The Court dismissed the contention by making an extremely intense and human assertion. It stated, "This contention is by all accounts in view of unadulterated hypothesis and on fake comprehension of the characteristics of reasonable sex and it adds up to an open affront to the establishment of our sacrosanct womanhood. It is sit out of gear to battle that young ladies with satisfying conduct ought to be utilized in order to go about as show pieces to take into account the differed interests of the travelers, when infact more
established ladies, with more noteworthy experience and altruism can care for the solaces of outsiders betterly when contrasted with the more youthful ladies."

The Court additionally held that the Regulation presented a wide and uncontrolled caution on the Managing Director to expand the resigning age by ten years and consequently damaged Article 14 of the Constitution on the ground of over the top assignment of forces. Therefore, this direction was struck around the Court and it was held that air masters could work up to the age of 45 years, unless discovered restoratively fit. The Court revealed to Air India to outline new standards in such manner.

In the light of the above perception, it can be presented that the Supreme Court, presumably, has accepted a positive and compassionate approach which is with regards to the cutting edge values by striking down arrangements which advanced imbalance as well as undermined the status of ladies. However, then again, a male centric and biased disposition can be seen unmistakably in their thinking and choices. The choice of the court to maintained the arrangement excepting air masters to wed inside 4 years of administration don't at all seem sound and coherent. It is presented that such a bar on marriage gives off an impression of being a shock on the nobility of the reasonable sex and is in essence preposterous. It unmistakably damages Article 14 subjecting air entertainers to unfriendly separation as this higher time of marriage was recommended just for the air ladies and not for other ladies when all is said in done. Additionally, convincing an air entertainer to stay unmarried up to the age of 23 years is conflicting with Child Marriage Restraint Act, 1929 which recommends 18 years as the eligible age for young ladies.

Further, advocating the bar on marriage for the sake of family arranging and sparing the use of Air India on enlisting extra air entertainers does not sound persuading. That the bar on marriage would help in boosting of our family arranging program does not lay on Air Hostesses as it were. The boycott should then be similarly forced on male workers too. Likewise restricting a
couple of air masters from getting hitched wouldn't comprehend the populace development of the entire of India.

In this way, it is presented that the contentions given by the court to maintained the reproved arrange demonstrates the oppressive and one-sided demeanor of the legal.

**Sowmitri Vishnu v. Union of India:** This is another imperative case, which features the one-sided disposition of the legal. For this situation, the sacred legitimacy of Section 497 of IPC was tested as being prejudicial. Here a lady (Sowmitri Vishnu) documented a writ appeal to in the Supreme Court charging that Section 497 of IPC, under which her better half had arraigned her lover for infidelity, was violative of the Constitution.

Segment 497 holds a man blameworthy of the offense of infidelity, in the event that he confers sex with a lady who is and whom he knows or has motivation to accept to be the spouse of another man, without the assent or intrigue of that man, however with the assent of the lady. In such condition, the lady should not be culpable as an abettor.

It was battled in the interest of the applicant that Sec. 497 of IPC is infringement of Art. 14 of the Constitution since it unreasonably denies to ladies the correct which is given to men by making a silly characterization amongst men and ladies. It was contended that Sec. 497 empowered the spouse to indict the philanderer yet did not enable a wife to arraign the lady who had two-timing association with her better half or did not give any privilege on the wife to indict the husband who had two-timing relations with another ladies. Henceforth the area was unmistakably sexual orientation oppressive. It depended on a sort of "Sentimental Paternalism" which originated from the suspicion that ladies, similar to assets were the property of men.

At the point when asked for what valid reason the offense of infidelity can be submitted by a man and not by a lady, Chief Justice Chandrachud stated, "It is normally acknowledged that the man is the tempter and not the lady."

The judge also stated: The examination of the law is that the wife, who is clearly in an illegal relationship with another man, is the victim, not the creator of the wrong behavior. According to Article 497, the legislator believes that the
sanctity of the marriage house is a crime, as a manifestation of a man as a whole.

When women were allegedly no longer a victim of deception, but were told that they could really try men and destroy their families, Chief Justice said, Change in women may be related to the improvement of managers who are recovering or, worse, trying to change the healing law." The Supreme Court, in the light of above perceptions dismissed the request of and maintained the legitimacy of the Section.

It is presented that it was not a sound judgment. The segment made infidelity an offense just on account of a man who had sexual relations with a wedded lady. This implies, a man having sexual relations with a lady who is unmarried or a dowager or a divorced person does not submit the offense of infidelity. Additionally, if the sex is submitted with the assent of the spouse and obviously, likewise of the lady, no offense is conferred. In this manner, this area is by all accounts less worried about rebuffing marital treachery, yet is all the more unmistakably in view of medieval idea of wedded lady being the property of her better half. This segment in this manner, plainly abuses Art. 15(2) which restricted segregation on the ground of sex. So the test to the sacred legitimacy of the segment was very substantial. In any case, the choice to maintained the Section by the Hon'ble Court uncovers, that the scholarly judge appeared to be impacted by male centric belief system and qualities. Indeed, even his acclaim for ladies' qualities like, ladies being less unbridled than men (where he said that man is frequently the tempter and not the lady) is by all accounts only an unobtrusive glorification of ladies' subordination on the grounds that those ladies who fit in the male centric structure of the general public are regularly romanticized.

Vijay Lakshmi v. Punjab University and Others: For this situation, Rules 5, 8, 10 of Punjab University Calender Volume III accommodating arrangement of woman Principal Women's College or a woman instructor in that was held to be violative of Articles 14, 15 and 16 of the Constitution of India.

The Supreme Court did not accept the aforementioned conflict and established that this reservation against a lady named director of a restrictive female university can not be considered a violation of the privilege of fairness.
The Court said: "With regard to the idea of fairness in the Constitution, it can be said that there could be a classification of men and women for certain positions." It can not be said that this classification is arbitrary or if separate schools or schools are justifiable, there should also be rules that justify the appointment of a principal or teacher, the goal is a precautionary, preventive and protective measure based on the public morality and, in particular, about the young age of girls to teach, can believe in absolute freedom, you can not believe in such freedom, but in this case, when a general policy decision is taken by the state and that the rules are defined, can not therefore be described as arbitrary or justified, the rules authorizing the power to appoint only a lady director, a teacher, a doctor or a superintendent constitute a violation of articles 14 or 16 of the Constitution. " The Court in its decision relied upon the judgments of earlier cases while interpreting Articles 14 to 16 of the Constitution. In view of the policy decision of classification, the Court reiterated the judgment of the Apex Court in State of Jammu and Kashmir v. Triloki Nath Khosa, wherein the Court (Chandrachud J.) while giving a very progressive interpretation of the right to equality and the classification principle held thus, “Discrimination is the essence of classification and does violence to the constitutional guarantee of equality only if its rests on an unreasonable basis and it was for the respondents to establish that classification was unreasonable and bears no rational nexus with its purported object.”

The Court further held, “But the concept of equality has an inherent limitation arising from the very nature of the constitutional guarantee. Equality is for equals. That is to say that those who are similarly circumstanced are entitled to an equal treatment. Since the constitutional code of equality and equal opportunity is a charter for equals, equality of opportunity in matters of promotion means an equal promotional opportunity for persons who fall, substantially within the same class.”

Further, the Supreme Court while considering the special provisions for women repeated the decision of Bombay High Court in Dattatraya Motiram More v. State of Bombay. Here the Court while giving a clear view of Article 15 and 15 (3) observed that, Ası You should always keep in mind the discrimination that should be kept in
mind 15 (1), discrimination based on only one of the reasons stated in S. 15 (1). This discrimination can be allowed, provided that the classification is allowed. The classification stems from other aspects than those belonging to a particular gender.

In addition, the court noted: "Section 15 (3) is clearly a reservation of 15 (1) and the reservation clause, 15 (3) below: 15 (1) only discrimination based on gender is not allowed, because it is not allowed to discriminate against men. (3), discrimination in favor of women is allowed and in cases where the state discriminates against women, it is not against it.

The Court while further explaining the scope of Art. 15(3), reaffirmed the decision of the Gujarat High Court in *B.R. Acharya and another v. State of Gujarat*, where the Court (R.C. Mankad. J.) while defending the preferential treatment given to women under Art. 15(3) held thus, “Having regard to the nature of duties to be performed, it is open to the State Government to decide that the institutions which are exclusively meant for women should be headed by only women or lady officers. The Government cannot be compelled to appoint male officers to head such institutions, if it does not consider advisable to do so. If a special provision is made for women, the petitioners cannot make grievance that they have been discriminated against.”

Taking the above interpretations of Articles 14 to 16 to its logical end, the Court (Shah. J.) held that, “Rules 5 and 8 of the Punjab University calendar Volume III providing for appointment of lady Principal in Women’s College or a lady teacher therein cannot be held to be violative either of Article 14 or Article 16 of the Constitution because classification is reasonable and it has nexus with the object sought to be achieved. In addition, the State Government is empowered to make such provisions under Art. 15(3) of the Constitution. This power is not restricted in any matter by Art. 16.”

This judgment is a milestone and one more step towards achieving gender justice which no doubt, highlights the positive and creative attitude of the judiciary, wherein the Court has clearly supported the preferential treatment given to the women, by interpreting precisely Articles 14 to 16 of the Constitution.
(ii) Dowry: The act of endowment has been a well established custom in Indian culture. It is demonstrating a danger to the general public and has taken the state of business exchanges. With the respectable target of putting a stop to the malicious routine with regards to share, Dowry Prohibition Act was achieved in 1961 and was revised twice in 1984 and 1986 to streamline its arrangements and make the punishments more stringent.

The law is defined as "sharing" any property or any important security which is directly or indirectly granted or permitted to be given:

(a) with a rally for a wedding at the next rally for the wedding or
(b) the marriage union for the marriage of the parties concerned, the marriage of a guardian for a marriage or any other person, marriage or any other person before or before marriage.

A discussion emerged with respect to the meaning of share holding that in perspective of the very meaning of "endowment" which has "giving" or consent to give as its fundamental fixings, simple request can't be named as an offense unless there seemed to be "giving" or "consent to give". This contention was featured for a situation, Nunnu Venkateshwarlu v. Province of Andhra Pradesh, in which the expired had kicked the bucket an unnatural passing following 5 years of marriage. Despite the fact that there was adequate confirmation to demonstrate that the requests for share were made, the High Court of A.P. watched that the arraignment needs to demonstrate that there was earlier understanding by the guardians of the young lady to the spouse or the in-laws to pay a significant security, cash, and so forth. The High Court additionally held that since the requests made by the blamed were not requests which were consented to be paid by the father of the expired at the season of the marriage, they would not add up to requests for settlement. The High Court for this situation appears to have been affected by the words 'consented to be given' in the meaning of settlement in the Dowry Prohibition Act, 1961.

The above judgment was in total contrast to the apex Court judgment in State of HP vs. Nikku Ram. For this situation, the Supreme Court curiously began off the judgment with the words 'Settlement, endowment, share'. The S.C.
gave the clarification with reference to why they have specified the word 'settlement' thrice. This is on the grounds that interest for endowment is made on three events: (i) before marriage, (ii) at the season of marriage, and (iii) after the marriage.

The S.C. has additionally clarified for this situation that however the meaning of 'share' is expressed as 'property or significant security given or consented to be given… .', requests made after the marriage could likewise be a piece of the thought in light of the fact that an inferred understanding must be perused to give property or important securities, regardless of whether asked after the marriage, as a piece of thought for marriage. The Court likewise held that the revised meaning of 'endowment' influences it to clear that the property or the significant security require not be as a thought for marriage, as was required under the un-changed definition. In addition, the expansion of the words "whenever" before the articulation "after the marriage" would plainly demonstrate that regardless of whether the request is long after the marriage the same could constitute endowment, if different necessities of the area are fulfilled.

This view was additionally affirmed for the situation, Pawan Kumar v. Territory of Haryana. Here the Supreme Court held that,

"The word understanding alluded to in Section 2 of the Dowry Prohibition Act, 1961 must be construed on the realities and conditions of each case. The elucidation that conviction must be if there is assention for endowment, is misjudged. This would be in opposition to the command and question of the Act. "Share" definition is to be deciphered with alternate arrangements of the Act including Section 3, which alludes to giving or taking settlement and Section 4 which manages punishment for requesting endowment, under the 1961 Act and the Indian Penal Code. This influences it to clear that even request of settlement on different fixings being fulfilled is culpable."

Accordingly, the over judgments' unmistakably demonstrate that requests made after the marriage would likewise constitute the offense of endowment. In any case, one finds that this abhorrent routine with regards to share is expecting threatening extents and has turned into an essential issue in
marriage bringing about pitilessness to wedded ladies. Inspite of the alterations in the Indian Penal Code and Indian Evidence Act managing brutality and share passings of wedded ladies, youthful ladies are by and large constantly killed, consumed alive or tormented each year on the adjust of settlement.

The Judiciary in such manner can assume a vital part over the span of social equity. Remarking upon the objects of Dowry Prohibition Act and part of Judiciary, the S.C. in State of Karnataka v. M.V. Manjunathegowda watched that:

"The act of giving and requesting settlement is a social malice having injurious impact on the whole acculturated society and must be denounced by the solid hands of the legal. Notwithstanding different corrections furnishing hindrance discipline with a view to control the expanding threat of share passings, the detestable routine with regards to settlement stays unabated. The Court can't be neglectful of the intendment of the governing body and the reason for which the authorization of the law and alteration has been affected. Each court must be sharpened to the authorization of the law and the reason for which it is made by the lawmaking body. It must be given an important understanding to propel the reason for enthusiasm of the general public overall. No tolerance is justified to the culprit of a wrongdoing against the general public. Keeping these general records and conditions out of sight, an impediment discipline is called for."

Further, the legal while communicating its anxiety for this social abhorrence in Brij Lal v. Prem Chand, watched that, "The corruption of society because of malignant arrangement of settlement and the unconscionable requests made by voracious and deceitful spouses and their folks and relatives, bringing about a disturbing number of self-destructive and endowment passings by ladies has stunned the Legislative still, small voice… ."

In spite of different dynamic judgments', one finds that lack of care and sexual orientation inclination is predominant among huge areas of the legal which brings about foul play being distributed to the complainants of share badgering. In spite of the fact that there are some dynamic judgments', yet now and again, the legal has demonstrated a one-sided mentality in fathoming such cases.
At times, the individuals from legal have shown conflicting states of mind towards issues of ladies. While some have passed way breaking judgments, others have looked to keep up business as usual and vindicated the blamed on details and insufficiencies for law. In State of Maharashtra v. Ashok Chotelal Shukla, an all around advanced case, the expired spouse Vibha Shukla was discovered copied while the husband was available in the house. A lot of settlement was paid at the season of marriage and there were a few resulting requests for endowment. At the point when the spouse (Vibha Shukla) conveyed a girl, the family did not acknowledge the youngster and she was abandoned in her folks house. Inspite of this, the Bombay H.C. put aside the request of conviction of the sessions court by vindicating the spouse of the charge of murder and badgering under Section 498-An of IPC. The Court held that the offense of murder couldn't be demonstrated past sensible uncertainty and further, that incidental pitilessness and badgering can't be interpreted as brutality under Section 498-An IPC.

The bias against women was most bluntly revealed in the famous Manjushree Sarda case. In this case, Manjushree Sarda, a 20 year old wife of Sharad Sarda was found dead under suspicious circumstances and her husband (Sharad Sarda) was guilty of the murder of his wife by suffocation and oral administration of potassium cyanide, by both the sessions court and Bombay High Court, and was awarded the death sentence. Sharad then appealed to the S.C. where a mockery and revocation of justice took place. The conservative judgment of Justices Fazal Ali, Varadarajan and Mukharji of the S.C. acquitted Sarda on the ground that the guilt of the husband was not proved beyond reasonable doubt and that the wife might have committed suicide out of depression. After his release from custody, Sarda flew away to America and got married again. The review petition presented by some women organizations was dismissed by the S.C.

Another case in which all the three courts i.e., trial court, High Court and Supreme Court adopted a totally different attitude was State (Delhi Administration) v. Laxman Kumar. In this case, the deceased (Sudha), who was nine months pregnant was burnt to death by sprinkling kerosene oil on her clothes. The three accused – mother-in-law, her husband and her brother-in-law – were tried by the trial court for the offence of murder under section
302 IPC. The trial court, considering it as one of the atrocious dowry deaths, sentenced all the accused to death, and referred the matter to the High Court for confirmation of death sentence. The High Court, in turn, acquitted all the accused.

The Delhi High Court differed from the trial judge on almost every aspect. The Court in its conclusion, observed that,

“The sentence of death awarded to three persons including a woman in a wife burning case was given wide publicity both by the national and international news media. The verdict of acquittal which we are about to deliver is bound to cause flutter in the public mind more particularly amongst women’s social bodies and organizations. We are performing our constitutional duty. Judges have no special means of finding out the truth. We entirely depend on the evidence produced on record and do our best to discover the truth within the limitations laid down by law. Judges are human beings and can err. The satisfying factor is that we are not the final court and there is a Court above us and if our judgment is wrong it shall be set right.”

The S.C., in its judgment observed that, “The learned judge had a duty to impose the death penalty. The acquittal took place and almost two years have passed since the participants were acquitted by the Supreme Court and released. If your wife is burned, the death penalty may not be offensive. However, we do not think that it would be appropriate to consider the delay penalty as a necessary result due to the delay in the events of the case and in particular after the acquittal before the Supreme Court. guilt”.

The Court accordingly allowed the appeals partly and directed that, “the two respondents, Smt. Shakuntala (mother-in-law) and Laxman Kumar (husband) shall be sentenced to imprisonment for life. Appeal against Subhash (brother-in-law) stand dismissed and his acquittal is upheld”.

This case shows how the reversing of judgments of lower courts by the higher courts due to different attitudes of the different courts results the accused persons to go scot-free from punishment.

As of late a case has become visible in which the Supreme Court has held that the interest for cash by a spouse from his in-laws for meeting residential costs won't go under the ambit of settlement, justifying criminal indictment Regarding this, a seat of Justices G.P. Mathur and R.V. Raveendran stated,
"An interest for cash because of some budgetary stringency or for meeting some critical residential costs or for acquiring fertilizer can't be named as an interest for settlement."

The verdict was due to the verdict of the Bombay Supreme Court, which insisted on insisting that the court should be sentenced to seven years' imprisonment in a case. Appasaheb was charged with the death of the better half of Bhimabai, who kicked the bucket after consuming the poison. 498-A (his brutality against savagery against the morning), 304-B (donation transfer) 34 (normal purpose) and 306 (the complexity of guilt) were recorded against his wife and mother. CPI suicide. Although he was acquitted of guilt, brutality and punishment, he and his mother were convicted of murder. While suppressing conviction, the headquarters explained that the mother of the expired spouse registered one day after the death of his mother, and that the reason for the abuse was a "benefit" against money and "subsequent beating". the spouse, who is the most extreme point, has approached the important ones in order to receive money to cope with the costs of the household. Although progressive decisions emphasize the dowry-related dowry and death-related problems and the need to combat it, remember that there is evidence that there is strong evidence against the consequences of the accused, and a court's decision has been examined by another court.

(iii) Prostitution: The threat of prostitution is developing at a disturbing rate in our nation. The Immoral Traffic (Prevention) Act, 1956 was ordered with the protest of canceling trafficking in ladies and young ladies. The laws on trafficking, as for the situation with different enactments have experienced legal examination and a few choices and headings have exuded from different fora. The procedures and judgments of the Courts have purchased in new measurements and reactions in the arrangements, programs and their usage in averting and battling trafficking.

Some important cases are discussed below:

**Vishal Jeet v. Union of India:** For this situation, a Public Interest Litigation was documented under Article 32 against the constrained prostitution of young ladies, devadasis and jogins and an interest was made for their recovery.
The Supreme Court on the insidious consequences of prostitution observed that ger in the framework of civilization prostitution still remains a satisfactory plague and cannot deny the fact that it destroys all moral values. The causes and deviant effects of the prostitute's society are so fierce and frightening that no one can deny. "

The court also said that it was extremely fragile and encouraging to see that "poor, prime-age children and girls" were brought to the "meat market" and forced into "sales work." There can be one - in fact, none of them - this is a ruthless crime and all kinds of unthinkable weaknesses processed with disgusting, should be eliminated with hard measures at all levels.

Justice Ratnavel Pandian, while referring to various provisions of law under various Acts for combating the evil of prostitution held that, “Inspite of stringent and rehabilitative provisions of law under various Acts, it cannot be said that the desired result has been achieved. It cannot be gainsaid that a remarkable degree of ignorance or callousness or culpable indifference is manifested in uprooting this cancerous growth despite the fact that the day has arrived imperiously demanding an objective multi-dimensional study and a searching investigation into the matter relating to the causes and effects of this evil and requiring most rational measures to weed out the vices of illicit trafficking.”

In this spirit, the Supreme Court has requested an assessment of the various measures taken by the central government and state governments and their correct updating. The Court also called for a serious and speedy legal activity against the exploiters, for example, pimps, traders and managers of bad reputation. The Court issued a series of orders that, among other things, provided for the creation of a different district council that offers rehabilitation centers to successfully manage the devadasi setting, jogging practice, etc.

The above judgment shows the positive attitude of the judiciary, its activism for the early elimination and the adoption of positive actions in the treatment of the defect of prostitution. **Gaurav Jain v. Union of India:** This is another case wherein an open intrigue suit was recorded looking for development in the predicament of whores/fallen ladies and their offspring. Communicating its anxiety for the steady increment of prostitution, the Supreme Court passed a request coordinating, interalia, the constitution of a council to make an indepth
investigation of the issues of prostitution, youngster whores and offspring of whores to help advance reasonable plans for their protect and recovery.

The Court was of the view that, “Children of whores ought not be allowed to live in inferno and unfortunate surroundings of whore homes. This was especially so on account of young ladies whose body and psyche are probably going to be mishandled with developing age for being conceded into the calling of their moms.”

The Court while issuing bearings for the anticipation of acceptance of ladies in different types of prostitution and to guarantee the assurance of human privileges of such people watched that, “Women found in flesh trade should be viewed more as victims of adverse socio-economic circumstances rather than as offenders in our society……..The ground realities should be tapped with meaningful action imperatives, apart from the administrative action which aims at arresting immoral traffic of women under ITP Act through interstate or interpol arrangements and the nodal agency like the CBI is charged to investigate and prevent such crimes.”

The Court while emphasizing on rehabilitation schemes and programmes observed that, “If alternatives are available and society is inclined to receive them, they will gladly shed off their past and start with a clean slate as a fresh lease of life with renewed vigorous hope and aspiration to live a normal life, with dignity of person, respect for the personality, equality of status, crave for fraternity and acceptability in the social mainstream. Therefore, it would be imperative to provide a permanent cure to the malady. There would be a transition from the liberation from the prostitution to start with fresh lease of life………..Therefore, it is the duty of the State and all voluntary non-governmental organizations and public spirited persons to come in to their aid to retrieve them from prostitution, rehabilitate them with a helping hand to lead a life with dignity of person, self-employment through provisions of education, financial support, developed marketing facilities, as some of major avenues in this behalf.”

The two cases talked about above demonstrate the dynamic state of mind of the legal in managing the bad habit of prostitution. There cases have laid the guideline for a few official choices and for the start of many projects. These judgments have featured the significance given to singular human rights and
have brought into center the obligatory part and duty of the State in guaranteeing that such infringement don't occur.

(iv) **Pre-natal Diagnostic Techniques:** Pre-natal Diagnostic Techniques were actually meant for detecting serious genetic defects early in pregnancy so that if needed, the fetus can be aborted. However, today these techniques are widely used for sex-determination and selective abortion of female fetus fetuses. To check this misuse, Pre-natal Diagnostic Technique (Regulation and Prevention of Misuse) act, 1994 was passed. It aims to regulate the use of pre-natal diagnostic techniques for legal and medical purposes and to prevent its misuse. Under PNDT Act, pre-natal diagnosis for the purpose of sex determination is prohibited.

The Supreme Court in a case namely Centre for Enquiry into Health and Allied Themes (CEHAT) v. Union of India issued various directions to the Centre, the States and to Union Territories to implement the provisions of the PNDT Act, banning sex determination and sex selection to prevent female feticide.

In this case, a petition was presented by the Research Center on Health and Allies issues (CEHAT), by Dr. Sabu M. George and other subjects in accordance with article 32 of the Constitution, in which he was Among other requests as prenatal diagnosis techniques that contravene the provisions of the PNDT law, the central government and state governments must implement the provisions of the PNDT law.

The Supreme Court, on the prevailing situation in Indian society, noted that “it is an accepted fact that in Indian society, discrimination against girls still prevails, may be due to the uncontrolled dowry system that prevails, despite the Law of prohibition of dowry, in How there is no change in mentality or even due to the inadequacy of education and / or the tradition of women who are limited to domestic activities. The selection / determination of sex adds to this adversity. it is used more and more for the elimination of the fetus (it may or may not be seen as a murder commission), but it certainly affects the relationship between the sexes: the misuse of modern science and technology by preventing the birth of girls through Determination Sex and subsequent abortion are evident from the figures from the 2001 census that
reveal a more pronounced decrease in the age group between 0 and 6 years in co-operative states. Haryana, Punjab, Maharashtra and Gujarat, which are economically better."

To control the situation, the Parliament enacted the law on prenatal diagnostic techniques (regulation and prevention of abuse) of 1994 (hereinafter, "the PNDT law"). The preamble, in particular, states that the purpose of the law is to avoid the improper use of these techniques in order to determine the prenatal sex that leads to female feticide and for questions related to it.

It is clear that the PNDT law is not implemented by the central government or state governments. Therefore, the petitioners are bound to come to this Tribunal in accordance with Article 32 of the Constitution of India. "

The Supreme Court further noted that, "at first glance it appears that, despite the fact that the PNDT law was promulgated by Parliament five years ago, neither the state governments nor the central government have taken the appropriate steps to implement it."

Based on the above facts, several indications based on various provisions have been issued to the central government and state governments for the correct implementation of the PNDT law.

The Court, based on the affidavits presented on behalf of several states, pointed out that the instructions issued by the Court are not respected. In this regard, the Court stated that,

"There is a total attenuation by the Administration in the implementation of the law." Some expert advisers stated that no procedure had been conducted even though the genetic counseling center, genetic laboratories or genetics clinics were not registered. The provisions of article 23 of the law have been regulated, but only one warning has been issued: in our opinion, unregistered centers must be treated by the competent authorities in accordance with the provisions of the law.

"It is necessary to declare that the competent authorities or any official of the central or state government authorized in this case must file a complaint in accordance with article 28 of the law to prosecute the offenders. The competent authorities should carry out the necessary survey of the clinics and take the appropriate measures in case of not registering or not complying with the provisions of the law, including the Regulation. The competent authorities
are not only authorized to take actions criminal, but also to search and confiscate documents, documents, objects, etc. Of organisms not registered according to article 30 of the law."
The Court added that "it was emphasized that the States / territories of the Union did not submit quarterly declarations to the central supervisory council on the application of the law on prenatal diagnosis diseases (regulation and prevention of abuse) of 1994 (hereinafter " the deed ") Therefore, it is expected that the quarterly reports of the Central Supervisory Board will be presented with the following information:
Survey of Centers, Laboratories / Clinics
Registration of these organisms.
Action undertaken against unregistered bodies.
Search and seizure.
Number of awareness campaigns and Results of the campaign. "
On November 7, 2001, a special adviser to the Union of India said that the central government had decided to take concrete measures to implement the law and proposed the establishment of a national inspection and control committee. So ordered accordingly.
On December 11, 2001, it was stated that some state governments did not disclose the names of the members of the advisory council. As a result, government governments were instructed to publish the names of their advisory committees in various districts so that citizens could approach them in case of complaints.
The court also said that "for the proper implementation of the law and the rules, the central government may be required to establish appropriate standards for the sale of ultrasound machines to various clinics and establish directives not to sell machinery that will not be registered."
According to the various directives published by the Court on March 31, 2003, it was decided that the law had been amended and "Early detection and prenatal diagnosis (prohibition of gender selection) Act.
The Court held that the correct and effective application of the law on the indications presented by the Court, the techniques of prenatal and prenatal diagnosis (prohibition of gender selection) must be respected and taken into
account. The Supreme Court also ordered central and provincial governments to advertise to raise public awareness of non-discrimination between women and men. The reports of the competent authorities must be published annually. The national control and audit committee should continue working.

It is strange that the country has only seen its first conviction on fetal gender determination in the near future, despite the strict orders of the judiciary and the fact that the PNDT law has been in force for 13 years. On March 28, 2006, a divided judicial judge from Haryana sentenced a doctor and his assistant to two years in prison and was imprisoned. Since he violated the prenatal diagnosis law in 1994, 5,000 people each (regulation and prevention of abuse). Dr. Anil Sabhani and his assistant Kartar Singh, a government medical team, sent three patients to the Faridabad clinic.

Marked notes were recovered from the doctor’s pocket. This was hailed as a landmark order. But Faridabad is just one district in the country and the situation won’t improve till there is similar action in every district. This conviction is only a beginning. There have to be many more for it to make a difference.

(v) Maternity Benefits: Maternity Benefit is an insurance given to the ladies specialists by method for installment of money, restorative reward and leave with compensation for a specific period previously, then after the fact labor. This advantage is paid on the every day normal reason for a greatest time of 12 weeks, a month and a half (counting the day of conveyance) continuing the day of conveyance and a month and a half take after that date. Since the Maternity Benefit Act did not characterize the term ‘week’, so a debate emerged with respect to whether the maternity advantage would be ascertained for non-working days, for example, Sundays. This contention was taken up by the Supreme Court for a situation, B. Shah v. Work Court Coimbatore.

He appealed to the Supreme Court to qualify the term "week" in accordance with the Maternity Assistance Act of 1961. The Court also made a negotiable agreement along the lines of the ILO Convention in the light of a legitimate concern for the women who are maneuvered and supervised. Thus, in relation to subdomains (1) and (3) of section 5 of the law, the term edil week
Belge should be understood as a cycle of 7 days, including Sunday, which is formulated in the absence of the lady special, that is expected to be done, that is, for every day, including Sundays, which may not be available during the day, and not only for six days of irregular days, but also for the possibility of actually being at that time. "Profits that were ready for unrealistic practice were included immediately before and after the day of the transfer, and immediately after a month and a half of that day," they will use the words "for the days when they fell in unrealistic times Before and after the day of the trip, a month and a half later, without shaking, it is moving rapidly, including a period apart from the Chinese The "new" period that took place in Article 5 (1) of the Law is a correct word According to our decision, it seems to emphasize that the continuous passage of time and the repetition of the seven-day cycle is emphasized It is an absolute necessity in this association to solve the problems of social equality, since it is expected that account of the problem of social equality for women experts in the field of social equality, which are used on farms and in the field of social equality.42 The Court must take advantage of the valuable advantages of development, which will allow them to maintain their productivity as experts and maintain their previous performance and performance levels.

In this way, the judiciary found that the calculation of the benefit by birth must be made to receive a salary in less than a day on all days, including Sundays and rest days. Therefore, as indicated in the previous statement, an expert woman has no right to claim compensation under normal circumstances, a Sunday or rest day, but despite the days of salary less, she will be eligible for the benefit for maternity. This approach shows that the judiciary is concerned to provide greater security for working women when the premature birth of a young person emerges as a limitation due to pregnancy, failed work or anguish.

Despite the fact that the Constitution of India and furthermore the Maternity Benefit Act 1961, accommodate expansion of maternity advantages to all the working ladies, yet we find that according to the accessible evaluations, just 1.8% of the workforce is secured by the enactment. This is a result of the way that a lion's share of foundations in the private area and furthermore few government divisions don't stretch out these advantages to the ladies
laborers.
The Supreme Court while taking genuine note of this, offered bearings to the Government to stretch out these advantages likewise to ladies representatives dealing with day by day wage premise in its point of interest judgment in, Municipal Corporation of Delhi v. Delhi v. Female Workers(Muster Roll) case. In this situation, the Delhi Municipal Corporation expressed interest in maternity leave, which was made available to female specialists, but was denied due to the fact that their administrations were not regularized and therefore were not qualified for leave of motherhood.

A claim was recorded for their benefit by the Delhi Municipal Workers Union in which it was expressed that the Municipal Corporation of Delhi utilizes countless including female specialists on assemble roll and they were made to work in that limit with regards to years together however they were enrolled against crafted by enduring nature. It was additionally expressed that the idea of obligations and duties performed and embraced by the summon move representatives were the same as those of general workers. The ladies utilized on gather move, which have been working with the Municipal Corporation of Delhi for a considerable length of time together, needed to work hard in development activities and support of streets including crafted by burrowing trenches, and so forth yet the The Corporation does not offer maternity benefits to women specialists who are obliged to work during pregnancy or shortly after transporting the child. It was claimed that female workers needed maternity benefits similar to those enjoyed by female specialists under the Maternity Allowance Act, 1961.

The Company, with all due respect, claimed that the provisions of the 1961 Maternity Benefits Act were not appropriate for the specialist women involved in the move, as they were all blocked day after day.

The Supreme Court in such manner stated, “… ..There is nothing in the Maternity Benefit Act which entitles just standard ladies representatives to the advantage of maternity leave and not to the individuals who are locked in on easygoing premise or on gather move on day by day wage premise.”

The Court, while taking an unmistakable perspective of Art. 42 and Maternity Benefit Act watched that, "Since Art. 42 exceptionally talks about just and
**altruistic states of work** and **maternity alleviation**, the legitimacy of an official or managerial activity in denying maternity advantage must be inspected on the iron block of Art. 42 which however, not enforceable at law, is in any case accessible for deciding the lawful viability of the activity gripped. The arrangements of the Act would show that they are completely in consonance with the Directive Principles of State Policy, as set out in Article 39 and in different Articles, particularly Art. 42. A lady worker, at the season of cutting edge pregnancy can't be constrained to embrace hard work as it is adverse to her wellbeing and furthermore to the strength of the embryo. It is thus that it is given in the Act that she would be qualified for maternity leave for specific periods before and after conveyance."

The Chief Justice (S. Saghir Ahmad) on the need to evacuate imbalances or financial differences in the general public for accomplishing social equity stated,

"A simply social request can be accomplished just when imbalances are pulverized and everybody is given what is lawfully due. Ladies, who constitute half of the section of our general public, must be regarded and treated with respect at places where they work to gain their employment. Whatever might be the idea of their obligations, their diversion and where they work, they should be given every one of the offices to which they are entitled. To wind up noticeably a mother is the most common marvel in the life of a lady. Whatever is expected to encourage the introduction of kid to a lady who is in benefit, the business must be chivalrous and thoughtful towards her and must understand the physical troubles which a working lady would look in playing out her obligations at the working environment while conveying an infant in the womb or while raising up the tyke after birth".

Hence, it was watched that the advantages under the Maternity Benefit Act can't be denied to the ladies (gather move) workers on the ground that they were not normal representatives of the Corporation.

The above judgment of the Supreme Court had for achieving results which demonstrated helpful to countless dealing with easygoing or impermanent premise who were prior denied maternity benefits.

**(vi) Equal Remuneration:** The fundamental protest of Equal Remuneration Act, 1976 is to accommodate the installment of equivalent wages to men and
ladies workers and for the anticipation of segregation on the ground of sex, against ladies in the matter of business and for issues associated therewith or accidental thereto.

Amid the most recent couple of years, various prosecutions, all finished India have turned up in Supreme Court and High Courts with respect to the laborers to look for meet pay for parallel work. A point of reference in the zone of execution of Equal Remuneration Act was come to with the proclamation of the Supreme Court choice in Asiad case i.e., People's Union for Democratic Rights v. Union of India.

The Supreme Court in its choice held that the Equal Remuneration Act encapsulates the rule of equity, the business is prohibited enlistment in view of sex – separation and on the off chance that he does as such he stands to damage the basic ideal to fairness revered under Article 14 of the Constitution.

The court decided that, it is the guideline of correspondence exemplified in Art. 14 which discovers articulation in the arrangement of Equal Remuneration Act, 1976."

Asiad case was an age making judgment of the Supreme Court which has not just made an unmistakable commitment to work law however has shown the innovative state of mind of judges in ensuring the interests of weaker segments of society.

Promote the Supreme Court in 1982 in Randhir Singh v. Union of India read the certification of equivalent pay for measure up to work revered in Art. 39(d), in Articles 14 and 16 of the Constitution. For this situation, Justice Chinnapa Reddy, while breathing legal life into the regulation of equivalent pay for approach work announced that, "Equivalent pay for break even with work isn't a negligible demagogic trademark. It is an established objective fit for accomplishment through protected cures by authorization of sacred rights. "Thus, the judiciary has played a creative role by bringing directive principles within the contours of Fundamental Rights."

The Supreme Court needed to consider out of the blue the arrangements of Equal Remuneration Act 1976 and brought out how profound established is the sex-separation in the equivalent pay for measure up to work in the acclaimed instance of Mackinnon Mackenzie and Co. Ltd. v. Audrey D'Costa.
This is the most critical legal proclamation on level with compensation.
For this situation it is indicated that Audrey D’Costa was filling in as a secret
woman stenographer in Mackinnon Mackenzie Co. She claimed that in spite
of the fact that she worked like her male partners, yet got a wage which was
significantly less than the wage earned by male stenos. She in like manner
guaranteed the contrast between the compensation paid to her and her male
partners. Her case was maintained both by the work court and the High Court.
The Company at that point recorded a request of under Article 136 of the
Constitution of India in the Supreme Court. The Company contradicted the
claim of the respondent on the ground that the classified woman
stenographers were not doing likewise or comparable work as the male
stenographers.
The Court, however nullified the conflict in and keeping in mind that
translating the extent of the articulation 'same or comparable work' under
Section 5 of the Act, set out the accompanying tests to decide if the work is
"same or of a comparable sort".

When deciding whether the work is the same or substantially similar, the
Authority needs to have a broad vision, then decide whether any difference is
practical and the Authority should take an equally broad approach to the
concept of similar companies. It refers to differences in detail, but it should not
go beyond the trivial demand for equality, and look at the functions actually
fulfilled, not theoretically possible. On the other hand, the institution should
generally consider the tasks performed by men and women; For example, all
night workers should not pay the same basic salary as a regular employee,
that is, an active woman. You can not claim equality with a man with a high
base rate for several days. At night, at this rate and if the postulant changes
her schedule, she will be eligible for this rate.

The court also added: "We do not recommend that there is no discrimination
between men and women in terms of wages, there are some types of work
that women can not do, men work like loading, unloading, transporting and
lifting things heavier than men. women can not do. Discrimination arise only
where men and women doing the same or similar kind of work are paid
differently.”
This assessment was reviewed by the Supreme Court’s recommendations in 1951. "Two jobs that work in making money separate from a male and female claiming that any investigation must be due to discrimination on the sex before applying for a formal job, establishing two jobs in equal value, without ...... And also, sexual discrimination is clearly emerging."
The scholarly judge, in perspective of above perceptions brought up that comparable occupations were being finished by the two men and ladies stenographers. Additionally, since, the woman stenographers were connected to senior administrators, they notwithstanding their own particular work were taking care of the people who came to see the officials and took the necessary steps of recording, correspondence, and so forth.
The most noteworthy part of this case was the dismissal of the dispute set forward in the interest of the administration that its money related position was not tasteful and subsequently, was not ready to pay break even with compensation to both male and female stenographers. The Court in this regard held that, “the Act does not permit the management to pay to a section of employees doing the same work or work of a similar nature, lesser pay contrary to the section 4(1) of the Act, only because it was not able to pay equal remuneration to all.”
Justice Venkataramiah dismissed the petition with a very pertinent and categorical observation that, “The applicability of the Act does not depend upon the financial ability of the management to pay equal remuneration as provided by it.”
Thus, the above case highlights the apparent injustice and subtle attempts to discriminate against women with regard to remuneration payable to male and female workers, which has been stoutly repudiated by the Court. Thus, the judiciary can play a positive role in preventing such discrimination where the employer attempts to violate the relevant provisions of the Equal Remuneration Act.
A cursory look at the various judgments relating to different fields discussed above shows that the judiciary no doubt on one hand, has shown a very impressive and progressive attitude towards women related issues. Courts by method for a few judgments have explained the correct degree and nature of
assurance given by the Constitution. They have either struck down statutory arrangements, traditions, social practices which are slanderous to ladies or treat ladies unequally to men or have translated them in a way that they quit insulting the Constitutional and authoritative arrangements securing women. But, on the other hand it must be submitted that in-spite of so many positive judgments complete gender justice has not been achieved. One finds that the judicial attitude is not uniformly favorable to gender equality. At times judges do discriminate between men and women and consciously and unconsciously reflect traditional and rigid attitudes towards them. Decisions are mostly taken by male judges who are not free from the influence of patriarchal ideology. The judges are after all part of the society and cannot be totally immune from the patriarchal biases prevailing there. Cardozo has rightly observed that, “the tides and the currents which engulf the rest of the men do not turn aside and pass the judges.”

A judge is also a human being. The judges are neither blessed ministers, expelled from the learning of worry of life nor generic vehicles of uncovered truth. They are men with fiery personalities and broadened foundations who translate the Constitution construing out of their encounters, their judgment about down to earth matters and their optimal of social request. John R. Schmidhauser, a leading authority on the judicial background studies has rightly assumed that the social and economic backgrounds of the justices, especially family attitudes, “may be accounted subtle factors influencing the tone and temper of judicial decision-making.

Thus, for bringing complete and blotless gender justice, impartiality and honesty of the judges is the need of the hour. While deciding a case, their conscience should be like a blank page on which the episodes of their private life had left no mark. Only then the purpose of judiciary would be achieved and the faith of women in law maintained.