Limitation Periods: Overview (India)
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A Practice Note providing an overview of the law of limitation in India. This Note sets out the limitation periods that apply to various types of claims and provides guidance on the practical considerations parties should consider in relation to limitation when bringing or defending a claim.

Length of Limitation Periods

Limitation issues are the first thing on a legal practitioner's mind when faced with a claim that may lead to litigation or is pending before a court or tribunal. From a claimant's perspective, the lapse of the relevant limitation period may result in a court or tribunal dismissing the claim, which means no action can be brought on it. Counsel should ensure that a claim is brought within the limitation period, or that the limitation period stops running or is suspended (or extended) to accommodate the claim, if necessary. From a defendant's perspective, a claim made by the plaintiff barred by limitation may lead to its dismissal and therefore counsel may need to expressly raise the ground of limitation in their statement of defence. Counsel from both sides need to be aware that disputes with regard to limitation periods often give rise to satellite litigation and delay the primary proceedings.

Limitation periods differ across jurisdictions, and even within a jurisdiction it may vary according to the type of claim. This Note provides an overview of the laws of limitation in India and the relevant limitation periods for different types of claims. It also sets out several practical considerations relevant to bringing or defending a claim, such as:

- The options to stop, suspend, or extend the running of the limitation period.
- The procedural options open to a defendant when a claim is time-barred.
- The impact of COVID-19 restrictions on limitation periods.
- The limitation law applicable to a claim governed by foreign law.

This Note also provides tips for claimants and defendants to keep in mind when considering the issue of limitation.

Definition of Limitation Period

Indian Law defines a period of limitation as a period prescribed in the Limitation Act for institution of any suit, appeal, or application. The prescribed period is the period of limitation computed in accordance with the provisions of the Limitation Act. (Section 2, *Limitation Act*, 1963 (Limitation Act).)

Principal Authorities Governing Limitation

The principal authority governing the law of limitation in India is the Limitation Act, which consolidates the law on limitation for suits and other connected proceedings. The Limitation Act prescribes different periods of limitations for different legal actions. See *Length of Limitation Periods*.

While prescribing the limitation period for different suits, the Limitation Act:

- Describes the time from which the period of limitation starts (section 3, Limitation Act).
- Provides for different instances which may impact the running of the limitation period, such as legal disability or fraud or mistake (sections 6 and 17, Limitation Act).
- Lays down the manner for computation of the period of limitation and the circumstances in which limitation period would stop running.

In case of a special law, the period of limitation prescribed in the special law would override the period specified in the Limitation Act (see *Subject-Sspecific Legislations Governing Limitation in India*).

Schedule to the Limitation Act

The *Schedule* to the Limitation Act codifies limitation periods for different kinds of legal proceedings, based on the description of the matter, period of limitation, and time from which the period begins to run. It provides limitation periods for:

- Suits relating to:
    - **accounts**. The limitation period is three years;
    - contracts. The limitation period is three years;
    - **declarations**. The limitation period is three years;
    - decrees and **instruments**. The limitation period is three years;
    - immovable property. The limitation period is 12 or 30 years;
    - movable property. The limitation period is three years;
    - tort. The limitation period is one, two, or three years;
    - trusts and trust property. The limitation period is 1, 3, 12, or 30 years.
- Appeals. The limitation period is 30, 60, or 90 days.
- Applications. The limitation period is 10, 30, 60, or 90 days or 1, 3, or 12 years.

Suits for which there is no prescribed period have a limitation period of three years (Article 113, Limitation Act). Applications for which no period of limitation is provided elsewhere in the division have a limitation of three years (Article 137, Limitation Act).

Subject-Specific Legislations Governing Limitation in India

Subject-specific legislations prescribe specific limitation periods for legal actions brought pursuant to the specific legislation, for instance:

- *Consumer Protection Act*. A complaint filed under the Consumer Protection Act, 2019 (Consumer Protection Act) before a District Forum, the State Consumer Commission, or the National Consumer Commission will not be admitted unless it is filed within two years from the date on which the cause of action arose (section 69 (1), Consumer Protection Act). A complaint filed outside of the two-year limitation period may be entertained upon a showing of sufficient cause for not filing within the limitation period, provided the court records its reasons for condoning the delay (section 69(2), Consumer Protection Act). Specific timelines are prescribed for filing of appeals from the District Forum to the State Consumer Commission and from the State Consumer Commission to the National Consumer Commission.

- *Commercial Courts Act*. This statute provides for constitution of commercial courts in India for adjudicating commercial disputes of specified value. It provides for mandatory pre-institution mediation before institution of a suit not praying for urgent interim relief. (Section 12A (1), Commercial Courts Act, 2015 (Commercial Courts Act).) The period during which parties were engaged in pre-institution mediation is specifically excluded while calculating limitation under the Limitation Act (section 12A (3), Commercial Courts Act). The statute further provides for strict timelines for filing appeals from an order of the Commercial Court to the Commercial Appellate Division or the High Court.

- *Insolvency and Bankruptcy Code*. The Insolvency and Bankruptcy Code consolidates the laws relating to **reorganisation** and corporate insolvency resolution of corporate persons, partnership firms, and individuals in a time bound manner. To compute the period of limitation specified for a suit or application, the period of moratorium (at the time of which all proceedings against the corporate debtor remains suspended) is specifically excluded. (Section 14, Insolvency and Bankruptcy Court.) There are additional strict timelines for filing appeals from an order of the Adjudicating Authority to the National Company Law Appellate Tribunal.

Limitation and Arbitration

Section 43 of the *Arbitration and Conciliation Act*, 1996 (Arbitration Act) stipulates that the Limitation Act is applicable to arbitration proceedings in the same manner as it applies to court proceedings. The date from which the right to sue accrues may vary from case to case and typically depends upon the agreement between the parties containing the arbitration clause. Unless otherwise agreed between the parties, the date on which the arbitration is deemed to have commenced is the date on which a request for the dispute to be referred to arbitration is received by the opposing party. (Sections 21 and 43(2), Arbitration Act.)

If a court sets aside an arbitral award, the period between the commencement of the arbitration and the date of the court's order is not be included in the computation of the time prescribed by the Limitation Act for filing fresh arbitral proceedings (Section 43(4), Arbitration Act).

Legislative Intent

The law of limitation was enacted with the legislative intent to prevent stale disputes or grievances from coming to court where resolution or redressal is not sought within the prescribed time. The law of limitation bars the remedy of the plaintiff but does not extinguish their right. The law is intended to ensure that parties do not engage in dilatory tactics and instead seek their remedy expeditiously. (*Balakrishnan v. M.A. Krishnamurthy*, 7 SCC 123 (1987).)

Distinction Between Prescription and Limitation

Prescription and limitation are distinct concepts under Indian law.

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The law of limitation prescribes time limits for a party to bring a claim or application before a court, and relates to the extinguishment of a remedy, if those time limits expire (*Prem Singh and Ors. v. Birbal and Ors*., AIR 2006 SC 3608; *L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd. and Ors*., AIR 2005 SC 1209; *Punjab National Bank and Ors. v. Surendra Prasad Sinha*, AIR 1992 SC 1815). The Supreme Court of India has held that the law of limitation is not meant to destroy the rights of the parties but is meant to regulate the availability of such remedy, for a legislatively fixed period (*N. Balakrishnan v. M. Krishnamurthy*, AIR 1998 SC 3222). The law of limitation seeks to promote diligence and expects a litigant to seek the enforcement of a right available to them within a reasonable time (*State of Karnataka v. Laxuman*, 8 SCC 709 (2005); *Binod Bihari Singh v. Union of India*, 1 SCC 572 (1993)).

On the other hand, the law of prescription leads to the creation or extinguishment of the substantive rights of the parties (*MP Daga v. Pradeshiya Industrial Investment Corporation, 2016 (8) ADJ 386*). For example, section 15 of the Indian Easement Act, 1882, provides for acquisition by prescription. Where access and use of light or air to and from any building have been peaceably enjoyed as an easement for a continuous and uninterrupted period of 20 years, the right to such access or use of light or air is absolute.

In addition to prescribing time limits, the Limitation Act also prescribes certain rules that extinguish the rights of a person due to the passage of time. For example, section 27 of the Limitation Act extinguishes the right to property of a person after the expiry of the limitation period.

Expiry of the Limitation Period

The Limitation Act bars parties from exercising a legal remedy if a claim or action is brought outside the prescribed period. The expiration of the limitation period gives the defendant a defence of limitation in legal proceedings. See *Limitation as a Defence*.

Failure to file a claim or application within the prescribed period of limitation extinguishes the remedy to file a claim, however the substantive right that the plaintiff seeks to enforce survives and continues to be available if there are other ways of enforcing it (*Bharat Barrel & Drum Mfg. Co. Ltd. v. ESI Corporation*, 2 SCC 860 (1971)).

For example, a claim of equitable set-off may be raised by a plaintiff irrespective of whether it is within the prescribed limitation period. In a suit for recovery of money, the debtor (defendant) can claim that an earlier debt in respect of the same transaction (recoverable from the plaintiff) should be set-off against the plaintiff's claim. Here even if the earlier debt is barred by limitation, at the discretion of the court, the debtor is permitted to set-off the debt due to the creditor by the amount of the debt due to them, *pro tanto.* (*Lakshmichand and Balchand v. State of Andhra Pradesh*, 1 SCC 19 (1987); *Jitendra Kumar Khan and Ors. v. The Peerless General Finance and Investment Company Limited and Ors*., 8 SCC 769 (2013); *Union of India v. Karam Chand Thapar and Bros. (Coal Sales) Ltd. and Ors*., 3 SCC 504 (2004).) A claim of equitable set-off has been held to be an exception to the law of limitation, since it constitutes an independent cause of action instituted on the same date as the suit for the recovery of money. For more on the circumstances in which courts will admit a time-barred application or appeal, see *Court Discretion*.

Counterclaims

The law of limitation applies to counterclaims in the same manner as it applies to a claim or a suit. Counterclaims are treated as a plaint (civil suit) (referred to as a complaint in other jurisdictions, such as the US) and are therefore governed by the rules applicable to them. (Order VIII Rule 6(A)(4), *Code of Civil Procedure*, 1908 (CPC)). Counterclaims fall within the category of suits and are deemed to have been instituted on the date on which they are made in the court (section 3(2)(b)(ii), Limitation Act). The limitation period provided under the Limitation Act for a suit or claim also applies to a counterclaim (*Thomas Mathew v. Construction Engineer K.L.D.C. Limited*, 12 SCC 560 (2018)).

Amendments to Pleadings

Applicability of Law of Limitation to Amendments to Pleadings

The CPC governs the procedure for filing civil proceedings in India. If a party wants to amend the pleadings filed by it in a suit, it may file an application under Order 6, Rule 17 of the CPC before the court in which the proceedings are pending. The application may be filed at any stage of the proceedings and allowed by the court at any stage of the proceedings. The court at its discretion may allow or disallow the application after examining whether the amendments being made are:

- Necessary for the purpose of determining the real questions in controversy between the parties.
- In cases where trial has already commenced, whether despite acting with due diligence, the party could not have filed the application before the commencement of such trial.

Courts, as a rule, decline to allow amendments if a fresh suit on the amended claim would be barred by limitation on the date of the application and when the pleadings itself reveal that the claim raised is time-barred (*Ashok Kumar Kalra v. Wing Cdr. Surendra Agnihotri and Ors.*, 2 SCC 394 (2020); *South Konkan Distilleries and Anr. v. Prabhakar Gajanan Naik and Ors.*,14 SCC 632 (2008)).

Commencement of Time

When Does Limitation Period Start Running

Under section 9 of the Limitation Act, once time has begun to run, no subsequent disability or inability to sue stops it. Different situations act as triggers for starting the period of limitation for different proceedings. (See *Length of Limitation Periods*.)

However, the Limitation Act itself prescribes exceptions to the above rule, including:

- Where before the expiration of the limitation period for institution of a suit or application in respect of any property or a right, an acknowledgement of liability of the property or right has been made in writing signed by the party against whom the claim is made, a fresh period of limitation is to be computed from the time the acknowledgment is signed (section 18, Limitation Act).

- Where payment on account of a debt is made before the expiration of prescribed period of limitation by the person liable to pay the debt, a fresh period of limitation is computed from the time when the payment is made (section 19, Limitation Act).

- Where there is a continuing breach of contract or a continuous tort, a fresh period of limitation begins to run at every moment during which the breach continues (section 22, Limitation Act).

Length of Limitation Periods and Triggers

For a comparative table on the length of limitation periods for different types of claims and actions, see *Length of Limitation Periods.*

Stopping and Suspending the Limitation Period

Subject to the provisions of the Limitation Act, every suit instituted, appeal preferred, and application made after the prescribed period of limitation shall be dismissed (section 3, Limitation Act). The Limitation Act further provides that once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops the running of the limitation period. (Section 9, Limitation Act.) Neither the court nor any other judicial authority can:

- Carve out an exception on equitable grounds warranting the stoppage of time.

- Postpone the operation of the law of limitation.

- Introduce an extension of time that is not recognised under the Act.

(*Siraj Ul- Haq Khan v. The Sunni Board of Waqf, U.P.*, SCR 1287 (1959); *Popat Bahiru Govardhane and Ors. v. Special Land Acquisition Officer and Ors*., 10 SCC 765 (2013).)

Neither the Limitation Act nor the Arbitration Act exclude the time spent in negotiation, mediation, or settlement in calculating the limitation period.

For more on exclusion of time in the computation of the limitation period under the Limitation Act, see *Exclusion of Time Under the Limitation Act*. For more on exclusion of time in the computation of the limitation period under subject-specific legislation in India, see *Subject-Sspecific Legislations Governing Limitation in India.*

Commencement of Suit Stops Limitation

The running of the period of limitation ultimately stops with the commencement of a suit before a competent court or quasi- judicial authority or forum. The time taken to institute and continue legal proceedings before a forum not competent to entertain the dispute may be excluded from calculation of the period of limitation, provided that such proceeding was instituted in good faith and with due diligence. (Section 14, Limitation Act.)

Exclusion of Time Under the Limitation Act

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Under certain circumstances the Limitation Act allows for exclusion of time in the computation of the limitation period. These circumstances include:

- Where a decree or order is appealed from or where a revision is sought, the time required to obtain a copy of the judgment on which a decree or order is founded is excluded (section 112(3), Limitation Act).

- In an application to set aside an award, the time required to obtain a copy of an arbitral award is excluded (section 12(4), Limitation Act).

- The time during which the plaintiff has been prosecuting with diligence and good faith another civil proceeding in relation to the same matter in issue or for the same relief, before a court that is unable to entertain such a proceeding due to lack of jurisdiction, is excluded (sections 13 and 14, Limitation Act). These provisions confer a certain discretion on the court to decide matters relating to defect in jurisdiction of the forum where the suit or proceeding is instituted. It allows for a wider, more liberal application on behalf of the court to not only consider cases involving a lack of jurisdiction, but any other circumstances, legal or factual, which prevent courts from considering the dispute on the merits. (*Roshanlal Kuthalia and Ors. v. R.B. Mohan Singh Oberai*, 2 SCR 491 (1975); *Union of India and Ors. v. West Coast Paper Mills Ltd. and Ors*., 3 SCC 458 (2004).)

- While computing the limitation period of a suit or an application for execution of a decree, the institution of which has been stayed, the time of continuance of an order or injunction that stays institution of a suit or execution of a decree, the day on which it was issued or made, and the day on which it was withdrawn, are excluded (section 15(1), Limitation Act).

- The time spent in giving notice or the time required for obtaining the consent or sanction of the government or other authorities, in computing the period of limitation in any suit where such previous consent of the government authority is required, is excluded (section 15(2), Limitation Act).

- In a suit for possession of property by the purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale of property is prosecuted is excluded (section 15(4), Limitation Act).

- The time during which the defendant has been absent from the territory of India is excluded (section 15(5), Limitation Act).

- The time between the death of a person, who if alive would have had an accrued right to sue or make an application and dies before the accrual of such right, to the time there is a legal representative of the deceased capable of instituting such a suit or application, is excluded (section 16, Limitation Act).

- In cases where the suit is based on the fraud of the defendant or for relief from the consequences of a mistake, the period of limitation does not begin to run with regards to institution of the suit or application until the fraud or mistake has been discovered by the plaintiff, or until it could have been discovered with reasonable diligence (section 17, Limitation Act). This provision does not relate to all kinds of fraud, and only prevents a party from being penalised for failing to institute legal proceedings when facts or documents have been concealed from them wilfully. (*Saranpal Kaur Anand v. Praduman Singh Chandhok and Ors.*, Supreme Court, Civil Appeal No. 2573 (2022) (arising out of Special Leave Petition (C) No. 27794 (2016).) This provision relates to concealed documents as well.

Date on Which Proceedings Are Issued

Date of Institution of a Suit

Section 3(2)(a)(i) of the Limitation Act states that a suit is instituted, in an ordinary case, when the plaint is presented to the proper officer. Under Order IV, Rule 1 of the Code of Civil Procedure, every suit must be instituted by presenting the plaint in duplicate to the court or court officer. It must abide by the rules for filing the plaint under Order VI and Order VII. The suit is instituted on the date when the plaint is filed in accordance with these provisions. However, non-compliance of Order IV is not fatal and an opportunity is ordinarily granted to the plaintiff to cure defects. (*Ansal Properties & Infrastructure Ltd. v. Col. Y.L. Sud*, 165 DLT 390 (2009).)

Electronic Filing of a Suit

The Supreme Court has created draft *Model Rules for e-filing* which discuss the scope of limitation period for electronic filing. These have been adopted by some High Courts such as the Delhi High Court and the Kerala High Court, albeit with certain modifications. They state that the date of e-filing is the date when the action is electronically received in the registry within the prescribed time on any working day. For computing the time at which e-filing is made, Indian Standard Time (IST) applies. The provisions for limitation governing electronic filing are the same as those applicable to physical filing.

Practical Issues

Closure of Courts and Judicial Forums on the Last Day of Filing

If the prescribed period for any suit, appeal, or application expires on a day when the court is closed, the suit, appeal, or application may be instituted, preferred, or made on the day when the court reopens (section 4, Limitation Act).

In cases of certain appeals and applications, an extension of the prescribed period is allowed if the appellant or the applicant satisfies the court that they had sufficient cause for not preferring the appeal or making the application within such period (section 5, Limitation Act).

Delay in Completing Court Formalities

In India, when a pleading is filed before a court or judicial forum, the registry reviews the pleading and points out the defects which need to be cured for the suit to be placed before the court or judicial forum for adjudication. These defects then must be cured within a prescribed timeline and refiled with

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the registry. The procedural rules pertaining to removal of objections and refiling of pleadings before a court differ from court to court. Most rules give discretion to the court or judicial forum to condone the delay in re-filing provided sufficient cause for the delay is shown.

Changing or Extending the Limitation Period

The law on limitation in India is statutorily prescribed and codified. Parties do not have the discretion to change the prescribed period of limitation or waive it by way of an agreement once it has lapsed (see *Stopping and Suspending the Limitation Period*).

The law on limitation applies to every suit or proceeding irrespective of whether limitation has been raised as a defence by the defendant.

However, the Limitation Act itself provides for situations which have an effect of extending or suspending the limitation period (see *Commencement of Time* and *Stopping and Suspending the Limitation Period*).

Court Discretion

Time-Barred Claims

The Limitation Act prescribes a bar on the initiation of all suits, appeals, and applications beyond the time prescribed under the Act (section 3, Limitation Act). Once institution of a suit, appeal, or application is barred by the law on limitation, the remedy stands barred.

While courts do not have discretion to allow time-barred suits, they do have the discretion to admit limitation-barred appeals or applications provided sufficient cause is shown to the satisfaction of the court. Sufficient cause must be a cause that was beyond the control of the party invoking the aid of this provision and it must be a bona fide cause. (Section 5, Limitation Act.) Courts have liberally construed sufficient cause under section 5 and follow a broad approach while applying this provision.

Claims Involving Fraud, Concealment of Facts, or Mistake

In cases of fraud or mistake, the period of limitation does not begin to run until the plaintiff or applicant has discovered the fraud or mistake, or could have, with reasonable diligence, discovered it. This includes cases where:

- The suit or application is based upon the fraud of the defendant or respondent or their agent.
- The knowledge of the right or title on which a suit or application is founded is concealed by the fraud of the defendant or respondent.
- The suit or application is for relief from the consequences of a mistake.
- Any document establishing a right in favour of a plaintiff or applicant has been concealed from them.

(Section 17, Limitation Act.)

Absence of Defendant from Country

Section 15(5) of the Limitation Act provides for exclusion of the time during which the defendant has been absent from India in computing the period of limitation for a suit.

Differing Limitation Periods

Multiple Causes of Action

Where the facts and circumstance of a claim result in more than one cause of action, it is possible for different limitation periods to apply depending on the cause of action pleaded. For instance, in a matter relating to damage or loss of goods, a breach of obligations claim under the contract and a concurrent breach of duty owed to the plaintiff under law of tort may lead to liability under both. The Limitation Act prescribes separate periods for the preference of suit in tort, and for breach of obligations under contract. However, the limitation period available for both actions cannot run sequentially. The limitation periods instead run concurrently, from the very first occasion of legal injury to the plaintiff. In most matters involving concurrent liability, the plaintiff prefers the longer period of limitation available to them. (*P.K. Kalasami Nadar v. Alwar Chettiar and Ors*., AIR 1962 Mad 44 (1962).)

Effect of Type or Class of Claimant on Limitation

The Limitation Act does not differentiate between the type or class of claimant bringing the suit. However, for institution of a suit or application by a person who is a minor, insane, or incapacitated, the limitation period commences after the disability has ceased. (section 6, Limitation Act.)

Limitation as a Defence

The plea of limitation need not be set up as a defence. Even if limitation has not been specifically raised by the defendant as a challenge to the proceeding, it is not deemed to have been waived. If a claim or application is preferred before the court, the court may move to dismiss the application or claim, due to it being time barred. (section 3, Limitation Act.) Usually, this determination is peremptory in nature, and is made at the earlier stages of proceedings, when the maintainability of the claim or application is considered by the court. The plea can be raised at any stage in the proceedings, and therefore cannot be found to be waived simply because the defendant has not raised the plea at an earlier stage of the trial. (*Sheikh Makbul v. Union of India and Anr*., AIR 1960 Ori 146; *Ramesh Kumar v. Rajesh Kumar and Ors.*, AIR 2015 HP 85.)

In cases where limitation is a mixed question of law and fact, the courts deal with it immediately after the conclusion of evidence.

Impact of COVID-19 on Limitation Periods

In light of the lockdown imposed in India due to Covid-19, the Supreme Court issued an order on 23 March 2020, eliminating the period of lockdown starting from 15 March 2020, from the computation of the limitation period. In accordance with Article 142 and Article 141 of the Constitution of India, the Supreme Court issued this order to provide comprehensive justice to litigants who faced obstacles in submitting petitions, suits, applications, and appeals, in all procedures under the general and special law. The order governed all civil, criminal, arbitration, and writ applications. The order dated March 23, 2020, was extended from time to time and finally by order dated 10 January 2022, the period from 15 February 2020, to 28 February 2022, was excluded for the purposes of limitation. (*In re: Cognizance for Extension of Limitation*; 2022 SCCOnline SC 27.)

Claims Governed by Foreign Law

Limitation: Procedural or Substantive

The law on limitation in India has conventionally been procedural in nature as it generally bars the remedy and not the right. Thus, limitation in India is generally considered to be a procedural law rather than a substantive one, except in situations where the law on limitation has an effect of extinguishing the substantive right of a party.

It is a general principle of common law that all matters concerning procedure are to be governed by the law of the forum, while everything that goes to the substance of a party's right is governed by the law of the land where the cause of action arose or the contract was made.

Limitation in Cross-Border Disputes

Where a local court in India has jurisdiction to hear a claim governed by foreign law, as a rule, the law on limitation as applicable in India applies. For example, the availability of a judicial remedy in a matter based on a contract governed by the laws of a foreign jurisdiction is subject to limitation under the Limitation Act. (section 11, Limitation Act.) The Limitation Act ordinarily bars remedies without extinguishing the rights of a party sought to be availed through the remedies. (*Prem Singh and Ors. v. Birbal and Ors*., AIR 2006 SC 3608; *L.S. Synthetics Ltd. v. Fairgrowth Financial Services Ltd. and Ors.*, AIR 2005 SC 1209; *Punjab National Bank and Ors. v. Surendra Prasad Sinha*, AIR 1992 SC 1815.)

The application of section 11, however, is subject to the exception that the rule of limitation must be procedural and must not extinguish a right available under the contract, but rather a remedy available to the parties (section 11 (2)(b), Limitation Act; *MuthuKanni Mudaliar v. Andappa Pillai and Ors., AIR 1955 Mad 96*).

For example, under section 27 of the Limitation Act, a right to possession of any property is extinguished at the end of the limitation period for instituting a lawsuit for possession of the property. For cases governed by section 27, the law on limitation is not procedural, but substantive because it extinguishes the right to possession of the property. Where the rule of limitation is one that extinguishes a right or creates a title, it ceases to be a matter of mere procedure. *(R.A. Dickie and Co. (Agencies) Ltd. v. The Municipal Board, Benares and Ors., AIR 1956 Cal 1216*.) Therefore, section 27 cannot be applied pursuant to section 11, and the statute of limitation of the foreign jurisdiction is applicable.

In the event the right itself stands extinguished under the law of the foreign jurisdiction, the question of a limitation period under the Limitation Act becomes redundant. Once the substantive right of the party stands barred under the law of the foreign jurisdiction, any action emanating from it in the local courts of India cannot survive, irrespective of whether the law on limitation in India allows the party to pursue an action. (*Bank of Baroda v. Kotak Mahindra Bank Ltd., AIR 2020 SC 1474*; *Bhagwandas B. Ramchandani v. British Airways Civil Appeal No. 4978 of 2022 (Arising out of SLP (C) No. 16767/2018*.)

The above position of law, however, seems to be changing with the times. The Law Commission of India in its 193 rd report on Transnational Litigation-Conflict of Laws-Law of Limitation, published in June 2005, has recommended an amendment to section 11. The amendment proposes application of laws of limitation of India instead of the laws of the foreign jurisdiction in cases of transnational litigation. However, this amendment is yet to be carried out in the Limitation Act.

Tips for Claimants and Defendants

A claimant should bear the following considerations in mind when instituting a suit or proceeding in India:

- The date on which the cause of action first arose as the limitation period generally starts running from that date.
- The jurisdiction of the court before which the case is being prosecuted must be closely examined. If the case is prosecuted in a court without jurisdiction and the claimant is unable to establish good faith or due diligence, section 14 of the Limitation Act (related to exclusion of time during which the plaintiff has been prosecuting another civil proceeding) will not apply. Even though proceedings may have been initiated in time, the limitation period will not stop running.
- In case of fraud or mistake, the limitation does not commence until the claimant has or could have with reasonable diligence discovered the fraud, concealment, or mistake.
- With respect to a suit related to a property or a right, if the opposite party acknowledges liability in writing, a new period of limitation is computed from the date when the acknowledgement is signed.
- If a new party is added or substituted in the complaint, the suit is deemed to be instituted when the party is added or substituted. Therefore, the limitation period with respect to a subsequently added party will continue to run until that party has been added as a party to the proceedings.
- In cases of continuing breach or continuous tort, the claimant gets a new cause of action for every breach (section 22, Limitation Act). A fresh period of limitation will only arise where the

source of legal injury is continued. The Supreme Court has distinguished between a "continuing wrong" and a "continuing injury," clarifying that in the case of a continuing injury, the damage resulting from a wrongful act may continue, but the same does not avail the plaintiff the right to seek recourse under the section. (*M. Siddiq v. Suresh Das* (2020) 1 SCC 1.)

The defendant, from limitation perspective, must bear in mind the following considerations:

- The limitation period applies to counterclaims.
- Limitation can also affect a plea used in defence. A defendant cannot raise an imperfect, incomplete, or inchoate right in their defence, which would otherwise need to be established in a suit, if it has not been raised within the prescribed time period for filing that suit. In other words, if the establishment of a plea in defence depends on filing of a suit within a particular time, a defendant is not allowed to urge that defence if the suit that has not been brought would have been time barred (that is, at the time when they urged the defence). That is the reasoning underlying the cases that prohibit the defendant from pleading a title based on part performance, when a suit for specific performance of the contract relied on would have been barred. (*Krishna Aiyer v. Subba Rediar* 1939 SCC Online Mad 37.)
- If a defendant is absent from India, such time of absence is excluded from computation of the limitation period.

Length of Limitation Periods

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
Claims based on breach of contract for: • A Service • A Sale of Goods • A Sale of Land	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.	Article 55, Limitation Act
Claims based on breach of **fiduciary duty** or trust	Three years	When the right to sue accrues.	Article 113, Limitation Act

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
Claims based on tort liability related to personal injury or death; by executors, administrators, or representatives under the Indian Fatal Accidents Act, 1855 (13 of 1855).	Three years; two years	When the right to sue accrues; or in case of executors, administrators, or representatives, the date of the death of the person killed.	Article 113, Limitation Act; Article 82, Limitation Act
Claims related to breach of warranty	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (where the breach is continuing) when it ceases.	Article 55, Limitation Act
Claims based on tort liability related to negligence	Three years	When the right to sue accrues.	Article 113, Limitation Act
Claims based on tort liability related to latent damages	Three years	When the right to sue accrues.	Article 113, Limitation Act
Claims where there is fraud, concealment of facts, or mistake	Three years	When plaintiff or applicant discovers the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production.	Section 17, Limitation Act
Claims related to defamation:	One year	When the libel is published; or when the words are spoken, or, if	Articles 75 to 76, Limitation Act

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
• Libel • Slander		the words are not actionable in themselves, when the special damage complained of results.	
Claims related to a rent deed: • For Arrears. • By a landlord to recover possession from a tenant.	• Three years • 12 years	• When the arrears become due. • When the tenancy is determined.	Article 52, Limitation Act

Claims related to a mortgage deed:
• To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.
• By a mortgagee:
  • for foreclosure; or
  • for possession of immovable property mortgaged.
	• To enforce payment of money, 12 years
	• For foreclosure, 30 years
	• For possession of immovable property mortgaged, 12 years
		• When the money sued for becomes due.
		• When the money secured by the mortgagee becomes due.
		• When the mortgagee becomes entitled to possession.
			Articles 62 to 63, Limitation Act

Claims related to consumer protection rights	Two years	When the cause of action arises.	Section 69, Consumer Protection Act
Claims related to recovery of land	12 years	When the possession of the defendant becomes adverse to the plaintiff.	Article 65, Limitation Act

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
Claims related to recovery of rent	Three years	When the arrears become due	Article 52, Limitation Act
Claims related to **negotiable instruments**; to cancel or set aside an instrument or decree or for the rescission of a contract	Three years	When the bill or note falls due; or when the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to them.	Article 31, Limitation Act; Article 59, Limitation Act
Claims related to bad faith insurance	Three years	When the right to sue accrues.	Article 113, Limitation Act
Claims related to shareholder derivative suits	Three years	When the right to sue accrues.	Article 113, Limitation Act
Claims related to securities laws	Three years	When the right to sue accrues.	Article 113, Limitation Act
Claims related to copyright infringement actions	Three years	The date of the infringement.	Article 88, Limitation Act
Claims related to registered trademark infringement actions	Three years	The date of the infringement.	Article 88, Limitation Act
Claims related to patent infringement	Three years	The date of the infringement.	Article 88, Limitation Act
Claims related to antitrust litigation: follow-on actions	60 days	From the date of the judgement.	Section 53(B) (2) of the Competition Act
Claims related to employment, including: • Unfair (wrongful) dismissal or termination • Discrimination, harassment, and bias	Three years	When the right to sue accrues.	Article 113, Limitation Act

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
Proceedings in which the court decides on the compatibility of laws with the Constitution (for example, judicial review)		The Limitation Act does not strictly apply to Constitutional matters. According to the Supreme Court, violations of the fundamental right to life and personal liberty would not be discredited merely because of delay or laches (*Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110*). Despite this view, the Court has expressed that even though there is no upper or lower limit to filing a writ petition before the Court, the importance of utmost expedition in filing such petitions cannot be undermined.	
Enforcement of judgments • For the enforcement of a decree granting a mandatory injunction. • For the execution of any decree (other than a decree granting a mandatory injunction).	• Three years • 12 Years	• The date of the decree or where a date is fixed for performance. • When the decree or order becomes or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place.	Article 135 to 136, Limitation Act

Type of claim or action	Limitation period	When does the limitation period start to run?	Relevant law or legislation
		• When the decree or order becomes or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place. Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.	

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