

# “Judgment Writing”

National Judicial Excellence Enhancement Programme

(JEEP)

First Visit

*September 8th, 2011 to September 13th, 2011*

National Judicial Academy India

On

September 11th, 2011

By Justice Sunil Ambwani  
Judge, Allahabad High Court

## INTRODUCTION

1. **A judgment is the statement given by the Judge, on the grounds of a decree or order.** It is the end product of the proceedings in the Court. The writing of a judgment is one of the most important and time consuming task performed by a Judge. The making and the writing of a judgment and the style in which it is written, varies from Judge to Judge and reflects the characteristic of a Judge. **Every Judge, of every rank has his own distinct style of writing.**

2. A judgment is distinct from a formal order as it gives reasons for arriving at a conclusion. **In United States it is called the ‘opinion’; the explanation given by a Judge for the order finally proposed or made.** The backlog of cases has put a great pressure on the Judges. It is no longer prudent to write a long and verbose judgment, with uncontrolled expressions and citations. The pressure of work and stress on most of the Judges today, demands improving skills in writing judgment, which are brief, simple, and clear without compromising with the quality.

## THE CODE OF CIVIL PROCEDURE

3. **In civil matters,** the judgments as the requirement of law goes, may be broadly classified into two categories, namely, **long and short judgments.** In original suits, the final decision of a case requires writing of a long and reasoned judgment. These includes suits for permanent or

prohibitory injunction; possession and mesne profit; specific performance of contract; cancellation of documents; partition and possession; dissolution of firm and accounting; redemption or foreclosure of mortgage etc. As compared to it a Judge is required to write short judgments, in the matter of interlocutory orders; summary suits; preliminary issues; review; restoration; accepting compromise etc.

**The Code of Civil Procedure, 1908** (the Code) defines **“Judgment” in Section 2 (9)** as the statement given by the Judge, on the grounds of a decree or order. **The “order” under Section 2 (14)** is defined as formal expression of any decision of a Civil Court, which is not a decree. **The “decree” in Section 2 (2) means formal expression of an adjudication**, which, so far as regards the Court expressing it, conclusively determination the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. **The rejection of a plaint and determination of any question under Section 144 is also a decree.**

4. **Order XX of the Code, deals with “Judgment and Decree”.** Rule 4 (1) provides that **judgment of Court of Small Causes** need not contain more than the **points for determination and the decision thereon**. Sub-Rule (2), provides for a judgment of other Courts to contain (i) **a concise statement of the case**; (ii) the points for determination; (iii) the decision thereon; and (iv) the reasons for such decisions. Rule 5 mandates that in suits in which issues have been framed, the Court shall state its finding or decision, with the reasons there for, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

#### **THE CRIMINAL PROCEDURE CODE**

5. In criminal matters, **Chapter XXVII of the Code of Criminal Procedure, 1973** provides for **‘The Judgment’**. **Section 353** requires the judgment in every trial to be pronounced in open Court immediately after the termination of the trial, or at some subsequent time of which notice shall be given to the parties or their pleaders. The judgment as provided in **Section 354, is to be written in the language of the Court, and shall contain (i) the point or points for determination, (ii) the decision thereon; and (iii) the reasons for the decision.** The section further provides that the **judgment shall specify (iv) the offence (if any) of which, and the section of IPC, or other law under it, accused is convicted and (iv) punishment to which he is sentenced.** If the judgment is of acquittal it shall state the offence of which the accused is acquitted and direct that he be set at liberty. In case of conviction for an offence punishable with death or in the alternative with imprisonment for life, the judgment has to state; (iv) **the reasons for sentence awarded and special reasons for death sentence.** In case of conviction with imprisonment for a term of one year or more, a shorter term of less than three months, also requires the Court to record reasons for awarding such sentence unless the sentence is one of imprisonment, till the rising

