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MISCHIEF RULE- Sreeja Srivastava¹**1.INTRODUCTION**

One of the most important and the principal duty which are vested on the judiciary is the interpretation of the statutes or the laws which are in force. When the courts deliver justice in a legal dispute, they strictly abide with the boundaries framed by the legal frameworks which encompasses certain laws, statutes, The Constitution and delegated legislations. The legal framework of a democratic country like India includes a plethora of legislations and regulations. The Legislature with the compliance of the procedural Parliamentary rules, formulates and drafts certain written statutes and legislations. The courts deliver justice in a legal matter by interpreting the underlying principles in these legislations. The written laws are substantiated by the courts and justice is administered by the courts through the pronouncement of verdict over the legal dispute. For the purpose of interpreting statutes and to prevent any wrongful interpretation of the laws, the court should follow certain rules to shape these laws. So, one of the most basic rules of interpretation is the Literal rule of Interpretation of statutes where the court interprets the wordings of the law as it is. However, there may be certain loopholes which may be found in the law due to which it is not interpret a straight-forward understanding of the language of the statutes. It may lead to ambiguity and absurdity if the courts interpret the natural meaning of the language used in the statute.

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2.MISCHIEF RULE

- This rule is called Mischief Rule because it focuses on curing the mischief.
- This rule was originated in Heydon's case in the year 1584. And in this case, there are four important things that are to be focused upon and which follows the true and sure interpretation:-
 - a. What was the common law before making of this act?
 - b. What was the mischief/ defect in this law due to which a new law had to be enacted
 - c. What is the remedy now provided by the Act of Parliament to deal with the mischief or defect for which the common law did not provide a cure?
 - d. The true reason of the remedy

The application of this rule gives the judge more discretion than the literal and the golden rule as it allows him to effectively decide on Parliament's intent. Legislative intent is determined by examining secondary sources, such as committee reports, treatises, law review articles and corresponding statutes.

3.PURPOSE

The purpose of this rule was to suppress the mischief and advance the remedy.

The mischief rule is used by judges in statutory interpretation in order to discover legislature's intention. It essentially asks the question: By creating an Act of Parliament what was the "mischief" that the previous or existing law did not cover and this act covers.

The mischief rule has lots of outcomes than the others that would result if the application was of the literal rule in the case of (*Smith v. Huges* 1960).

The mischief rule created in the century, and after some time, this rule was used in the environment of legislation which was a lot different from the one which was there in the last two centuries.

If we see the Elmer Driedger notes, 16th century common law judges looked on the statutes as a shining in comparison with the common law. Therefore, statutes were seen from the point of view of the effect on the common law, as adding up to it, subtracting from it or patching it. At that time also, judges had more attention to the spirit of the law in the Heydon's case. When they found the mischief, they began making the mischief with the words of the statute. They have a finishing to the statute or remodelled the statute, by putting all the things in order to be perfectly fit in the mischief and defect which was found by them.

4. MODERN USE

Modern courts apply mischief rule in a more restricted way, and giving regard to the integrity and prosperity of the statutes which are interpreted by them. Driedger says, "to this day, Heydon's Case is frequently cited. The courts still look for the mischief and the remedy, but now use what they find as aids to discover the meaning of what the legislature has said rather to change it." He argues that this rule of modern use of the rule of mischief has to be understood as one of the components of he had categorised as the modern style statutory construction, not to be standing alone rule type of serving which it had already been there. This would be an alternative to the methods of construction proposed by the original meaning rule and the golden rule.

5. ADVANTAGES

- The fact that the judge has greater flexibility with this rule.
- The fact that this rule helps achieve Parliamentary intent.
- This rule helps avoid absurdity and injustice
- Regarded by most modern commentators as the best of the three rules, giving effect as it does to the true intention of Parliament.

DISADVANTAGES

- The Reliance on extrinsic aids and their associated problems.

- That the use of this rule is limited due to the purposive approach.
- It means that judges can rewrite Statute Law, which only Parliament is allowed to do and it must be possible to discover the mischief in order for the rule to be used.
- Determining Parliament's supposed intention requires the use of a wide range of aids and presumptions.

6.CASE LAWS

SMITH VS. HUGES 1960

Law: Street Offences Act, 1958: it is an offence to solicit in a street for the purpose of prostitution.

Facts:-

Some prostitutes were accused of soliciting, contrary to the Act. The defendant along with other prostitutes, sat on a balcony, or inside a building tapping on the window, to attract the attention of men in the street.

Applying the literal rule. Will the defendant be guilty of soliciting?

Interpreted literally, there would therefore be no offence. Applying the mischief rule, it did not matter that the women were not on the street themselves, as they were still soliciting men in the street, which was what the act was designed to prevent. The purpose of this act was to prevent prostitution and not only end prostitution on the streets. They were therefore found guilty. The mischief was them tapping on the balcony seeking attention from the street.

Lord Parker said: 'Everybody knows that this was an Act intended to clean up the streets. I am content to base my decision on that ground and that ground alone.'

Therefore in conclusion, it can be said that each country has their own judicial system, and the purpose is give justice to everyone. The court has the aim to interpret the law in such a manner that each and every citizen is given justice. The real intention of the legislature is determined by these rules which are evolved.

The words in a statute is not always clear, explicit and unambiguous and hence, in these cases it is very important for the courts to determine a clear and explicit definition of the words that is used by the legislatures and at the exact time to remove every doubts if there are any.

PYARE LAL VS RAM CHANDRA

PyareLal was accused because he was selling sweetened betel nuts(supari). And the betel nuts (supari) was made sweet with the help of artificial sweeteners. Under the Food Adulteration Act, he was prosecuted. PyareLal said that the betel nut is not an item of food. Afterwards, the court held that the meaning by the dictionary is not always correct, and therefore, applicability of mischief rule is mandatory in this case. The remedy is advanced and this shall be taken into consideration. Therefore, the court held that the word 'food' is consumable by mouth i.e. orally. Hence, the prosecution of PyareLal was totally valid.

KANWAR SINGH VS FELHI ADMINISTRATION AIR 1965 SC 871

Section 418, Delhi Corporation Act,1902 permitted the corporation to round up the cattle grazing on the government land. The MCD rounded up the cattle that belonged to Kanwar Singh. The words used in the statute sanctioned the corporation to round up the abandoned cattle. It was contended by Kanwar Singh that the meaning of the word abandoned is the loss of ownership and those cattle which were round up belonged to him and hence, was not abandoned or discontinued. The court held that the mischief rule had to be applied and the word abandoned must be interpreted to mean let loose or left unattended or discontinued and even the temporary loss of ownership would also be covered as abandoned.

REGIONAL PROVIDENT FUND COMMISSIONER VS SRI KRISHNA MANUFACTURING COMPANY, AIR 1962 SC 1526

Issue, in this Case, was that the respondent concerned was running a factory where four units were for manufacturing. Out of these four units one was for paddy mill, other three consisted of flour mill, saw mill and copper sheet units respectively. The number of employees there were more than 50 in number. The RPFC applied the provisions of

Employees Provident Fund Act, 1952 thereby directing the factory to give the benefits to the employees.

The person concerned classified the entire factory into four separate units wherein the number of employees had fallen below 50 in number, and he argued that the provisions were not applicable to him because the number is more than 50 in each unit. It was held by the court that the mischief rule has to be applied mandatorily and all the four units must be taken to be one industry, and thus, the applicability of PFA was upheld.

In the case of KANAILAL SUR VS PARAMNIDHI SADHU KHAN

It was taken into account by the honourable Supreme Court that, “the mischief rule is the most helpful in the interpretation of statutes when the language of the statute is capable of more than one single meaning”.

7.CONCLUSION

The Parliament is the upper most or the supreme law making body. It has been assigned the most important task of drafting and implementing laws in the country. It is their duty to make sure that the drafting of the statute is in such a way where there are no signs of the quality of being open to more than one interpretation or the lack of strictness or care. But when there are signs of the quality of being open to more than one interpretation in the statute, then the courts must interpret the statute in such a way so that it is done in the same way over time, especially so as to be fair or accurate with the intention and the purpose of the legislature in passing the act.

In addition, the court also must not cross their limits in the name of judicial review or the power of the courts of the country to examine the actions of the legislature, executive and the administrative arms of the government and to determine whether such actions are consistent with the constitution. If it gives a wider or narrower interpretation of statute, the supremacy of the parliament must be secured in making of the laws. And very importantly, the courts must only act as supervisors of the various laws passed by the legislature. When the court has any of the quality of being ridiculous or wildly unreasonable or not guided by or based on a good sense and it creates unfair injustice,

then only the courts should give the wider interpretation to only fulfill the purpose of passing the statute by the legislature.

The original use of the mischief rule was that when it was created, and after some time, this rule was used in an environment of legislature and totally different from the one which has already to prove more powerful or superior in the past two centuries. Statutes were viewed from the point of view of the effect that it had on the common law, as upon adding, subtracting or patching from it. As we can see, in the Heydon's Case, more priority was given to the spirit of the law rather than to the letter.

8.REFERENCES

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