

## LAW OF PRECEDENT: RATIO DECIDENDI AND OBITER DICTA ARE PART OF THE LEGAL JUDGEMENT

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### ABSTRACT

*The Law of Precedent, often called the doctrine of Stare Decisis aka judicial precedent, is a legal theory that needs courts to follow past legal decisions while determining similar issues. The main goal of this concept is to guarantee that identical facts result in similar decisions and resist over time from impacting how similar conflicts are resolved. It may be similar to the process of gathering and analysing relevant and connected historical and contemporary influences to support, inspire, and justify an idea. A lower court cannot change a decision made by a higher court since it is binding on the lower court and serves as a Precedent for the lower court's ruling. Precedents are known for their customs and hence represent public opinion. It encourages judges to think practically and in an unbiased way. In somewhere around 1935, the Government of India Act<sup>1</sup> stated that the decisions of the Federal Courts and Privy Council were binding on all other courts in British India. As a result, stare decisis has been a defining aspect of our legal system since the eighteenth century. It plays an important role in deciding the case depending upon the previous judgment that is, the Precedent. Ratio Decidendi and Obiter Dicta (Dictum) are two aspects of a judicial decision.*

**Keywords:** Law of Precedent, Stare Decisis, Ratio Decidendi, Obiter Dictum.

### INTRODUCTION

The Law of Precedent, commonly known as Stare Decisis, requires judges to follow the same rule of law in similar situations and legal problems. A single court decision, often a sequence of decisions, establishes Precedents. The idea of precedents is to guarantee the equal treatment of parties in comparable circumstances and consistency, dependability, and predictability of court rulings. England had a unique position. English law gave great attention to Judicial Precedents. Due to their authority and great reputations, the English judges highly preceded Precedents. Stare Decisis is a legal belief that requires courts to follow precedent, while a

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<sup>1</sup> Government Of India 1935

judicial decision that serves as a model for subsequent cases is known as Precedent.

Stare Decisis increases the authority of the Supreme Court, regularity in the law, and predictability in legal ideas. Article 141<sup>2</sup> of the Indian Constitution states the idea of Stare Decisis. According to this Article, all Indian Courts must revolve around the legislation the Supreme Court has decreed. If the Supreme Court believes its previous verdict was inaccurate and injurious to the public interest, it may overturn it.

Ratio Decidendi and Obiter Dicta (Obiter Dictum) are two legal analytical concepts which are used to identify and understand legal principles given in a court's judgment. Knowing when to differentiate between Ratio Decidendi and Obiter Dicta is critical for legal practitioners and academics because it creates a clear legal precedent and ensures that the law is applied consistently. The legal judgment includes both Ratio Decidendi and Obiter Dicta. Properly distinguishing between them is a necessary skill for legal practitioners and researchers since it helps to create clear legal precedents and guarantees consistency in implementing the law. Both concepts are derived from English Common Law, and our Indian Legal System has been resembled from English. The Privy Council's rulings have had a dependable impact on the Indian Legal Judiciary System.

This article analyses the Law of Precedent, Ratio Decidendi, and Obiter Dicta ideas, as well as their definitions, benefits, drawbacks, and applicable case laws.

## **WHAT IS THE LAW OF PRECEDENT**

According to Keeton, judicial Precedents are “judicial decisions to which authority in some measure has been attached.”<sup>3</sup>

According to Salmond, ‘Precedent’ is the making of law by recognising and applying new rules by the Courts themselves in the administration of Justice.

Precedent comes from the Latin *praecedere*. The word was first used in the Middle English period and was gathered from both French and Latin. The Indian Constitution implied the

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<sup>2</sup> Constitution of India 1950, art 141

<sup>3</sup> *Sparsh Agrawal*, Doctrine Of Precedent <https://blog.iplers.in/scope-and-application-of-the-doctrine-of-precedents-under-article-141-of-the-constitution/> > accessed on 05 October 2024

Precedent rule from English jurisdiction.<sup>4</sup>

### **The factors that destroy the authority of the Precedent**

A Precedent loses its legal force if a later law regulation that conflicts with it is passed, or if a higher court defies it. A reputable decision may change the preceding rulings. The following scenarios apply:

- a) the precedent decision was made without knowing the law;
- b) the precedent decision conflicts with the ruling of the higher court; and
- c) the earlier decision defies logic (i.e., is illogical.)

### **DOCTRINE OF STARE DECISIS**

Doctrine: a Latin term known for stare decisis<sup>5</sup>, the doctrine of legal precedent. The term stare decisis refers to courts looking for similar or historical cases as an idea to take a judgement in future, it means to stand by the decided cases. This doctrine is mentioned in Article 141 of the Constitution. It is used in all courts and all legal issues.

The phrase "stare decisis et non quita movere" essentially refers to upholding the decisions made. It is a fundamental principle of judicial practice that started in Great Britain, Thereafter it advanced to other countries like the U.S.A. and other Commonwealth Nations, including India.

The definition of stare decisis in Black's Law Dictionary is "to stand by decided cases, to uphold precedents, or to maintain previous adjudications."<sup>6</sup>

### **DOCTRINE OF STARE DECISIS UNDER ARTICLE 141 OF THE INDIAN CONSITUTION**

Article 141 of the Indian Constitution states, "law declared by Supreme Court to be binding on

<sup>4</sup> Doctrine Of Precedent (Article 141) < <https://www.legalserviceindia.com/legal/article-6023-doctrine-of-precedent-article-141-.html> > accessed 06 October 2024

<sup>5</sup> Obiter Dicta and Ratio Decidendi-A Tug of War <<https://www.legalserviceindia.com/legal/article-742-obiter-dicta-and-ratio-decidendi-a-tug-of-war.html>> accessed 06 October 2024

<sup>6</sup> Stare Decisis Definition & Legal Meaning <<https://thelawdictionary.org/stare-decisus/#:~:text=STARE%20DECISIS%20Definition%20%26%20Legal%20Meaning&text=To%20stand%20by%20decided%20cases,precedents%3B%20to%20maintain%20former%20adjudications.>> Accessed 08 October 2024

all courts within the territory of India.”

Article 141 of the Constitution of India, 1950<sup>7</sup> expressly incorporates the notion of precedent in India. This Article stipulates that all courts operating inside India's borders must follow the Supreme Court's rulings. In the absence of a specific clause, all lower courts falling under the territorial jurisdiction of a High Court are bound by the decisions of that High Court by convention. In a similar vein, the lower Bench must abide by the decision of the higher Bench.

The Supreme Court is not bound by the decisions of the other courts mentioned in the article, which only refers to the Supreme Court. A judgment or decision of a court of law is cited as an authority for deciding a similar set of facts; a case that serves as an authority for the legal principle embodied in its decision. The common law has developed by broadening down from precedent to precedent.

### Foundation Facts Of Article 141

1. All the courts in India, are legally bound to follow the decision of the Supreme Court of India.
2. To begin with, the judgment must be read in its full form. Then, the observations were made in the context of the questions the court was asked to consider.

A ruling serves as a precedent only when it settles a legal dispute.

3. If a court is unable to decide a case then the decision taken by the majority of judges is later considered to be Precedent, but not the decision taken by the minority judges.
4. Ex-parte decisions by the Supreme Court are also binding in character and can serve as precedents.
5. The Supreme Court is not bound by its own decision. Further procedural irregularities do not render a judgment ineffectively.

Special leave petitions have a binding nature.

6. Article 141 states that only the ratio decidendi cases are considered binding, not the obiter

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<sup>7</sup> Supra Note 2, at page 2

dicta or facts.

Therefore, while applying the Supreme Court's decision by other courts, it's important to understand the fundamental principles established by the preceding court decision.

### **WHAT IS THE RATIO DECIDENDI**

According to Salmond, "The ratio decidendi may be described roughly as the rule of law applied by and acted on by the court, or the rule which the court regarded as governing the case."<sup>8</sup>

According to Rupert Cross, "The rule of law, expressly or implicitly treated by the judge as a necessary step in reaching his conclusion."<sup>9</sup>

In an ordinary sense, we refer to the reason behind the decision as the ratio, but it is much more than that. Ratio Decidendi is a Latin legal term with more binding authority than Obiter Dicta.

Meaning The (Latin) word Ratio describes, the measure of a quantity in terms of another; Decidendi means Decision.

Ratio decidendi means "the reason for deciding" or "the need for deciding"<sup>10</sup>

When the highest court of the country respectively (Supreme Court In India) makes a rule in a case and gives its judgment based upon that rule in that case, that case becomes a valid precedent. The Court outlines the reasons for its ruling in the case.

These justifications and decisions in the precedent are referred to as "ratio decidendi".

The court first conducts an investigation into the facts of a case and then evaluates the matter of law, which varies from time to time. The court can use the transactions between the parties, oral and documentary evidence, the current legislation, precedents, customs, and so on to conclude the case. If there are two or more two terms with different meanings, the court interprets them and examines them into the intention of the writer/legislature.

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<sup>8</sup> Supra Note 3, at page 2

<sup>9</sup> Supra Note 3, at page 2

<sup>10</sup> Ratio decidendi definition < <https://www.lexisnexis.co.uk/legal/glossary/ratio-decidendi#:~:text=What%20does%20Ratio%20decidendi%20mean,the%20verdict%20of%20a%20case.<> visited on 13 October 2024

The judge should not be affected by external factors or bias. He should examine the case based on the actual facts presented by his examination of the evidence.

### Some Of The Prominent Cases Of Ratio Decidendi

1. *Donoghue v Stevenson* [1932].<sup>11</sup>

The ratio decidendi in *Donoghue v Stevenson* is that a manufacturer has a legal duty towards consumers to take reasonable care to safeguard that their products are free of adulteration that could cause injury to the consumer. Hence, the manufacturer has the responsibility to care and make sure products are made with reasonable care. The consumer can trust the manufacturer about the safety of the product.

This case is also known as the "snail-in-a-bottle case". In this case, Mrs Donoghue was shocked and suffered severe gastroenteritis after consuming ginger beer that contained a decomposed snail. This case was heard in the House of Lords, Scotland's final civil appeal court at the time. It is also established the "neighbour principle", which is a main concept in negligence. The principle states that a duty of care is owed to people who are directly or closely affected by an act if it's reasonably foreseeable that the act could injure them.

2. *Girnar Traders v. State of Maharashtra* (2007).<sup>12</sup>

After observation of the case, the court decided that this case is not considered a part of the Ratio Decidendi concept.

3. *Shailyamanyu Singh v. the State of Maharashtra*[2023].<sup>13</sup>

### WHAT IS THE OBITER DICTA

According to Patterson, an obiter dictum is a 'statement of law which could not logically be a major premise on the selected facts of the decision.'<sup>14</sup>

Meaning: The (Latin) word Obiter means by the way; Dicta (Dictum) stands for sayings.

<sup>11</sup> *Donoghue v Stevenson* (1932) AC 562

<sup>12</sup> *Girnar Traders v. State of Maharashtra* (2007) 7 SCC 555

<sup>13</sup> *Shailyamanyu Singh v. the State Of Maharashtra(2023)*, IA No.90464/2023, Crl Appl 1422 of 2019

<sup>14</sup> Obiter Dicta and its application in judicial process < <http://www.grkarelawlibrary.yolasite.com/resources/FM-Jul14-LT-2-Subhash.pdf> > accessed on 14 October 2024

An obiter dictum is a comment /statement made by a judge during the process of his decision that may not be directly related to the subject at hand. Hence, this legal judgment is based on hypothetical facts. In simple words it is an opinion of the judge that doesn't affect the current ongoing issue, it works as a common warning to the respective party.

Let's take a simple look through an illustration for more clear understanding.

### **Illustration:**

The Telangana High Court gave certain decisions in a case. It is known to be Ratio Decidendi, and it shall be followed by the lower courts of the Telangana High Court. The same decision becomes 'Obiter Dicta' for any other state court and its subordinate courts.

In the same way, the rules framed by the Supreme Court of America, House of Lords of England, or any other respective country, however those rules may be good but for Indian Courts, it is Obiter Dicta. The same rulings framed by the Supreme Court are Ratio Decidendi for Indian Courts.

### **Some Of The Prominent Cases Of Obiter Dicta:**

1. Triefus & Co.Ltd vs. Post Office (1957)
2. Public Interest Litigation against The Government of Bihar

While disposing of this case on 16-10-1998, the Bihar High Court gave judgment against the State Government of Bihar. The Division Bench consisting of Justice B.P.Singh, and Justice N.K Sinha of Bihar High Court criticised the attitude of the state Government are follows: "The people of Bihar are living just like animals. There is no control over criminals. Without obstruction or control from police machinery, the criminals have been doing their atrocities and criminal activities as they like."<sup>15</sup>

Here, though this criticism was not necessary in that case, but Justices considered the poor condition of the Bihar State and its residents. Therefore they expressed their views in support to residents of the State of Bihar and criticised the State Government and police. Whatever the Bihar High Court expressed it cannot be considered as a ratio Decidendi, but it can be taken as Obiter Dicta(Dictum). It does not mean there is no value such as Obiter Dicta but instead, it

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<sup>15</sup> GADE VEERA REDDY, JURISPRUDENCE AND LEGAL THEORY 36 (2017) SUJATHA LAW BOOKS.

works as a warning to the police and the State Government even if it works as moral support to the people of the state respectively.

## CONCLUSION

In conclusion, the findings of an Article about various concepts like the Law of Precedent, Ratio Decidendi and Obiter Dicta with its Illustrations, relevant cases and so on. As we all know Precedent is a source law where past decisions create law for judges to refer back to for guidance in future cases and while deciding the case if the facts are similar then, this concept is applicable. It majorly saves the court time and reduces the burden of the court. Precedent is mainly based upon the principle of Stare Decisis. As it is said the Ratio Decidendi and Obiter Dicta(Dictum) are two content of legal judgment and it is relevant to understand about which part of the judgment is binding in the case of Precedent in the court of law. In *Mohd. Ahmed Khan vs Shah Bano Begum*,<sup>16</sup> the Supreme Court made a decision after examining the religious texts, is a binding precedent. The Apex Court of India took a decision after discovering that the important rights of Muslim divorcees, were not properly reflected in the original texts or other materials. In such a manner, many other cases made principles for future guidance to the court.

On the other hand, we have Ratio Decidendi which is more binding authority to the Law of Precedent. It must be followed by the lower courts / subordinate courts. In this concept, the decision/judgment made depends upon the facts, documentary evidence, etc. Those rulings play a major part in this aspect. And well-marked case of English and Scottish law is *Donoghue v Stevenson*. And recent case of India is *Shailyamanyu Singh v. the State of Maharashtra*. Another concept is Obiter Dicta which refers to the opinion of the judge/statement made by the judge but it not affect the ongoing matter. It just gives a personal expression aka personal views on a particular matter not directly affecting the judgment. Obiter Dicta actually works as a warning and gives support to the party that is suffering.

Hence, there are several foreign cases like *Behrens vs Bertram Mill Circus Ltd, Triefus & Co.Ltd vs. Post Office* and so on There is the case which marks from India that is *Public Interest Litigation vs Government of Bihar*. Obiter Dicta is not as authoritative as Ratio Decidendi.

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<sup>16</sup> *Mohd. Ahmad Khan v. Shah Bano Begum*, (1985) SCR (3) 844