



## Meenakshi Pharma Distributors v. State of Karnataka and Others

1999 (2) KarLJ 164

**Country:** India

**Region:** Asia

**Year:** 1998

**Court:** High Court - Karnataka

**Health Topics:** Health care and health services, Health systems and financing, Medicines, Poverty

**Human Rights:** Right to health, Right to life

### Facts

The Appellant, Meenakshi Pharma Distributors, had conducted various transactions with the authorities of the State of Karnataka for the sale of drugs. The contract stipulated that "if the payment is delayed beyond the period of 30 days, interest shall be payable at the rate of 15 per cent." However, the trial court reduced the rate of interest to 6 per cent for the period beginning from the date of the suit to the date of realization.

The governing law in the suit was Section 34 of the Civil Procedure Code, 1908. The section laid down the maximum rate of interest as 6 per cent calculated from the date of the suit to the date of the decree. For commercial transactions, however, the Court could fix any rate as long as it did not exceed the contractual rate of interest.

An appeal regarding the applicable rate of interest was preferred in the High Court. The issue to be decided by the High Court was whether the sale of drugs to the Government was in the nature of a commercial transaction. The section defined commercial transaction as a transaction connected to the "industry, trade or business of the party incurring the liability."

### Decision and Reasoning

As to whether the transaction was commercial in nature, the Court examined the purpose for which the Respondent purchased drugs. The Court found that the drugs were to be distributed to Government hospitals and to be used for the "benefit of citizens" and common people. The Court, therefore, held that the transaction was not commercial in nature since it was not connected with the industry, trade or business of the Respondent.

The Court then went on to hold that distributing drugs to government hospitals for the benefit of citizens was a welfare function of the State. It held that under Article 47 of the Constitution of India, improvement of public health was one of the primary duties of the State. The Court held that the Government purchased and distributed drugs in discharge of the State's Constitutional duties.

### Decision Excerpts

"It is no doubt that Government purchases medicines to provide them to the Government Hospitals for the welfare of the people as it is the duty and responsibility of the Government to ensure public health i.e., the duty of the State under the Constitution of India. In order to discharge that obligation, the State purchases the medicines from concerned firms. So the transaction of purchase of medicines by the Government for providing those medicines to the hospitals so that needy persons may get medicines to get rid of their ill health, in my opinion, such transactions cannot be termed to be commercial transaction." Para. 9.