# Review, Appeal & Revision: All you need to know about it

# Introduction

It is human nature to make mistakes. Judges are also humans. So they’re no exception to this kind of behavior. A judge can make an error in the course of his duties as well. There is yet to be born a man who has not made a mistake.

For centuries now, the provisions of appeal review and revision have been a part of the law. These provisions are some important steps in the attempt to remove or reduce the errors by the judges.

Because one of the reasons behind law’s birth was to preserve the rights of the public. And so the existence of law becomes worthless when the judgment of any lawsuit goes wrong. People in situations where they are wronged, try to get the shelter of law. But when law fails to provide a person with the shelter, the person becomes helpless and loses his trust in law. It is, therefore, a common principle that the law should not be mistaken. But it’s very difficult not to make mistakes. For this reason, the provisions of appeal review and revision were born.

# Review: Meaning of the term in the legal world

Review means when the court re-examines the decisions made by itself, the examination of any legislation made by the government or any act of the administrative organizations; it rectifies the error in an act, judgment, or legislation. According to many leading legal philosophers and luminaries, the main purpose of this law is to protect the rights of the people as the judgments made by the courts, not mostly, but at times are fallible. In the process of review, the court might either overturn the decision or make necessary changes in it.

## Nature, scope and objectives

Judicial review enables a person to enforce his right that might have been overlooked by the administrative organs or the courts. In the process of judicial review, the court will not look into the merits, but into the law of the act. If it finds contravention to any dominant law at the time of review then it would set the decision aside.

The court can set aside any legislation made by the parliament or any act done by the government or any order passed by the inferior court if they find it to be unconstitutional or violative of the natural justice principle. The Supreme Court and the High Court can also issue writs, if the situation demands so, as a part of the process of safeguarding the fundamental rights.

The objective behind this procedure is to make review a tool to ensure complete justice and to enforce the fundamental rights of an individual. The purpose is to have a check over the working of the legislature, in order to check the constitutionality or legality of the laws made by them. The act ensures that the laws made by the legislature passed the litmus test of the constitution. Another objective behind this law is to rectify the legal errors made while delivering the verdicts.

## Cases where review lies

**Non-appealable cases**– Non-appealable cases are cases where no right is given to the suffered party or when an appeal is rejected on the grounds of incompetence or being time-barred. The party who has suffered can hence file for review.

**Where appeal lies but is not preferred-**In cases where the benefit of an appeal lies but is not preferred by the party, the party can file for a review but the review must not be against the order because that would be going into the facts which are not entertained by the courts. When the party has already filed for an appeal before the court which is pending, in such cases the petition for review will not be entertained by the court. However, if the review petition is filed first and the appeal is filed subsequently then the court’s jurisdiction to review can’t be questioned under law.

# What are the grounds of review cases?

* **Discovery of new evidence**– When of new evidence or matter which is substantial to the case and was not in the cognizance of the concerned person, then that person can successfully apply for review. However, the burden of proof lies on the concerned person to prove that at the time of the verdict he was completely unaware of the fact or evidence that could have an influence in the decision making. However, the mere fact that the concerned party was not cognizant of the ruling in any other case which might have impacted the decision wouldn’t be considered by the court for review.
* **Error on the face of record**– The prima facie error that looks pretty conspicuous without a legal analysis of the judgment can only be taken into account for review under this ground. The error or mistake could either be a mistake in law or a mistake in fact.
* **Other sufficient reason**– This ground of review has given a very wide coverage of the reviewing process. In the landmark case of[*Chajju Ram*v.*Neki*](https://indiankanoon.org/doc/1363858/) it was held that the sufficient reason shall be connected with the other two reasons in the least possible way. The mere fact that the court ignored an important fact will not make a valid point under this ground.

# Who can file for a review?

* Review can be filed by any person who feels himself to be deprived of rights or aggravated under the law or the rule of law under [Rule 1 order 47 of the CPC](http://www.mondaq.com/india/x/136864/Copyright/Courts%2BPowers%2BUnder%2BSection%2B114%2BRead%2BWith%2BOrder%2B47%2BRule%2B1%2BCivil%2BProcedure%2BCode%2BNarrow%2BAnd%2BConfined%2BDelhi%2BHigh%2BCourt).
* Or; in non-appealable cases, where no right is given to the suffered party when an appeal is rejected on the grounds of incompetence or it being time-barred, then the party who has suffered can file for review.
* Or; in cases where the benefit of an appeal lies but is not preferred by the party, the party can file for a review but the review must not be against the order because that would go into the merits which are not entertained by the courts. When the party has already filed for an appeal before the court which is pending, in such cases the petition for review will not be entertained by the court. However, if the review petition is filed first and the appeal is filed subsequently then the court’s jurisdiction to review can’t be questioned under law.

# Court of plenary jurisdiction

Under [Article 136](https://indiankanoon.org/doc/427855/) of the Indian Constitution, the Supreme Court of India has the special power to grant special leave from any judgment, order or sentence made by any court or tribunal in the territory of India except to those belonging to the Armed Force Courts or tribunals. All adjudicating bodies that have been formed by the state can be counted as tribunals except the Armed Force Tribunal. [Article 136](https://indiankanoon.org/doc/427855/) has a very wide scope as it vests the power of plenary jurisdiction in the Supreme Court by granting it the power to hear any appeal against any kind of judgment and pass an order related to the appeal if needed, so as to preserve the principle of justice. Thus plenary power truly stands upon the ideals of democracy as it makes sure that justice will always be served at last, and removes the concept of injustice by an error of law. The concept laid down by the constitution-makers was to prevent the miscarriage of justice.

# Suo motto review

In law, *sua sponte*or*suo motu*(on its own motion*)* describes the act of authority, to take up the matter without the request of the other party. This term is generally used for measures taken by a judge on his own, without a prior motion or application from the parties.

It is a well-known fact that even if time restrictions are imposed on the application, the Court has the power of *suo moto* to rectify its own mistakes. Where inherent powers are exercised, the issue of limitation does not preclude a solution. The decision making authorities can be vested with suo motu powers of review in the interest of justice. If there are strong reasons present for a judgment to be reviewed, then there is no excuse why the court should be restrained from exercising the power of review.

# Appeal

An appeal is asking a higher court to review and if needed, to reverse the decision of the lower court and to turn it in the losing party’s favor after the final judgment has been given. The losing party has to quote legal reasons as to why it feels the judgment of the lower court was wrong and why it should be overturned by the higher court. The losing party and the appellant here must show the errors or mistakes that were committed during the previous trial. The two grounds on which an appeal can be filed are:

* **When a mistake was committed in the trial**– Only grave errors are counted under this provision. Harmless errors cannot be a ground for appeal. The appellant must also show that the error caused his rights to be infringed.
* **When evidence does not support the verdict**– It is much harder to prove an appeal that is based on insufficient evidence. As the Court of Appeal did not hear the entire proceedings in the previous trial and didn’t make a fully unbiased decision. Based on their belief in the judgement of the trial court, most appeal courts weigh and then make their decision.

In civil suits, both the plaintiff and the defendant can file a suit for appeal. A defendant has the right to file an appeal unless the judgment came from the court of the highest order. Not every appeal is entitled to be entertained by the court as there can be an appellable error and thus on those grounds the appeal can be rejected.

It must be kept in mind by the party when it decides to file an appeal that the appeal must be made in the limited time frame which varies depending upon the jurisdiction. However, the decision of the appellate court is not time-bound. The judges of the court of appeal take time to consider the issues and then make the final decision. This process can take weeks or even months.

# Letters Patent Appeal (LPA)

Letters Patent Appeal is an appeal from a single bench to a larger bench of the same court. Such kind of appeal is dealt with, under[Section 50(1) (b) of the Arbitration and Conciliation Act, 1996](https://indiankanoon.org/doc/58560/) and has to be judged within already laid down parameters. This remedy was first provided after the establishment of High Courts in 1865. The decision given by the single judge bench can go wrong due to wrong facts or can even be wrong according to the law. In these cases, the appellant has the option to refer to a larger bench of the same court before going to the Supreme Court. Thus, this would save the expenses of going and filing a case under the Supreme Court. Such kind of an appeal is called an intra-court appeal when it is filed in the High Court and an inter-court appeal when it is filed under the Supreme Court. The maximum period for filing an inter court appeal is 30 days and filing an intra-court appeal is 90 days.

After paying the court fees the appellant who files for an LPA is required to carry the following documents with him to the proceeding:

1. Certified copy of judgment and decree appealed from.
2. Certified copy of certificate granted by the High Court.
3. Certified copy of the order granting the said certificate.

However, it must also be noted that intra-court appeal is not maintainable in cases of criminal nature.

# Revision

Revision is a new prospect for the resolution of law. It means re-examining the case involving improper inference, non-exercise or inappropriate jurisdictional exercise. Where no appeal lies for a case, which is decided by the subordinate court, [Section 115 of the Code of Civil Procedure](http://www.aaptaxlaw.com/code-of-civil-procedure/section-115-115a-code-of-civil-procedure-revision-district-court-powers-of-revision-section-115-115a-of-cpc-1908-code-of-civil-procedure.html) gives the High Court the power to revise the matter. This jurisdiction is known as the High Court’s revisional jurisdiction. Revision refers to reviewing or scrutinizing with a view to correct or to improve.

In the exercise of revisional powers, it is not the responsibility of the High Court to take into consideration the benefits of the evidence; it merely has to see if the provisions of the law have been properly adhered to by the court whose order is the subject of the revision.

In Section 115 of the CPC, there are only three grounds for revision, which are:

* When the lower court meditates on a matter on which it has no jurisdiction.
* There was authority, but it was not exercised.
* Jurisdiction has been applied illegally or irregularly.

Section 115 shall thus prevent subordinate courts or lower courts from acting arbitrarily, illegally, irregularly or capriciously.

# Distinction between Review and Appeal

* When appealing to a court superior to the one that issued the verdict, the appellant will contest the inferior court’s decision with an appeal. The appeal is a motion to be tried again. An appeal to ask the higher court to amend the lower court’s decision is sought. The lower court’s decision may remain the same or it may be revised by the higher court. A review is not people’s statutory right and is applicable at the court’s discretion. A review is applied in the same court in which the original decision is taken and is a request to consider the legality of the ruling. A review is based on irregularity of procedures, impropriety, irrationality, and illicitness.
* [Section 114 and Order 47 of the CPC](http://www.mondaq.com/india/x/136864/Copyright/Courts%2BPowers%2BUnder%2BSection%2B114%2BRead%2BWith%2BOrder%2B47%2BRule%2B1%2BCivil%2BProcedure%2BCode%2BNarrow%2BAnd%2BConfined%2BDelhi%2BHigh%2BCourt) deal with review whereas [Sections 96 to 112 and Orders 41 to 45 of the CPC](https://www.wipo.int/edocs/lexdocs/laws/en/in/in056en.pdf) deal with appeal.
* There’s just one review. The second request for review does not lie. On the other hand, there are three appeals:
	+ From District Munsiff Magistrate Court/Subordinate Judge’s Court to District Judges (First Appeal);
	+ From District Judge’s Court to the High Court(Second Appeal);
	+ From the High Court to the Supreme Court (Third Appeal).
* An appeal is referred to different judges whereas a review is referred to the same judge.
* The grounds for appeal are wider in ambit than the ground for review.

# Distinction between Review and Revision

1. Review is contained in [Section 114 and Order 47 of the CPC](http://www.mondaq.com/india/x/136864/Copyright/Courts%2BPowers%2BUnder%2BSection%2B114%2BRead%2BWith%2BOrder%2B47%2BRule%2B1%2BCivil%2BProcedure%2BCode%2BNarrow%2BAnd%2BConfined%2BDelhi%2BHigh%2BCourt) whereas revision is contained in [Section 115 of the CPC](http://www.aaptaxlaw.com/code-of-civil-procedure/section-115-115a-code-of-civil-procedure-revision-district-court-powers-of-revision-section-115-115a-of-cpc-1908-code-of-civil-procedure.html).
2. Review is given by the court which passed the decree or made the order whereas revision is executed only by the High Court.
3. Review can be done only after the passing of the order whereas revision can be done when the case has been decided.
4. The decree granting a review is appellable whereas the decree granting a revision is not appellable.
5. The grounds for review are the discovery of new evidence, error on the face of the record and any other sufficient reason however the ground for revision is a jurisdictional error by the lower courts.

# Conclusion

The maintenance of justice which is important for every society in a democracy is possible due to the presence of the Constitution. The principles of democracy have been preserved by the provisions of review.

* The provisions have been used by the appellate courts while delivering verdicts. The main principle behind review is to protect the sanctity of complete justice and protect the rights of the individual through the legal process that is dominion over the republic of India. Review not only protects the right but also the dignity of the individual and makes sure that there is no miscarriage of justice.
* Justice vs judiciary is a topic that has been a century-long debate but the review system acts as an invisible bridge and ensures harmony between both by the due procedure of law. The provision removes the possibility of human error while delivering verdicts and ensures that the rights of every individual are protected in the eyes of law.
* The concept of review gives the power to a person to enforce his rights to establish justice against injustice. The review system is also very essential for checking and balancing the overreaching acts that the government might perform in the course of administration. If the legislature makes any law or the government performs any act that contravenes the right of any person in India and that contravention per se is not allowed by law, then review acts as a tool to salvation for that person, and any such act or law passed will be set aside by the appellate court.
* The review system sets the tone for the proper functioning of the pillars of democracy by determining the limits of every governmental and judicial organ and is essential for effective coordination. The suo moto cognizance is one of the most influential tools to enhance the judicial review and the justice process. It gives the right to the supreme court to take cognizance of the injustice that’s happening in any part of the country and enforce justice by law and order. It thus provides a solution to the very famous lines “injustice anywhere is a threat to justice everywhere”.

Revision on the other hand clothes the High Court with the powers to ensure that the subordinate courts ‘ proceedings are conducted within the boundaries of their jurisdiction and in the furtherance of justice in accordance with the law. It allows the High Court to rectify, errors of jurisdiction committed by subordinate courts and provides the means to obtain rectification of a non-appealable order to an aggrieved party. In other words, revisional jurisdiction is conferred on the High Court for the effective exercise of its supervisory and visitorial powers.

Appeal whereas ensures the litigants that they will be granted justice under the law while the resolution of a particular dispute and appeal also helps in enacting the rules of decision that will be binding on all lower courts within the judicial system, thus ensuring uniform treatment and some measure of certainty and guidance for those whose actions bring them within the scope of the rule.