



“बेटी बचाओ, बेटी पढ़ाओ” JAYOTI VIDYAPEETH WOMEN'S UNIVERSITY, JAIPUR

Government of Rajasthan established

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NAAC Accredited University

## **Faculty of Law and Governance**

**Faculty Name-** Ms. Tripti Negi

**Program-** BA LLB, Semester 6<sup>th</sup>

**Course Name-** Civil Procedure Code

Session No.& Name – 2023-2024

Academic Day starts with –

Greeting with saying ‘Namaste’ by joining Hands together following by 2-3 Minutes Happy session, Celebrating birthday of any student of respective class and National Anthem.

Lecture Starts with-

Review of previous Session

National song ‘VandeMataram’

Subject Name – Civil Procedure Code

Topic - Appeals From Original Jurisdiction

## Introduction

An appeal is a process by which a judgment/order of a subordinate Court is challenged before its superior court. The person filing or continuing an appeal is called the appellant and the concerned court is termed as the appellate Court. A party to a case does not have any inherent right to challenge the judgment/order of a Court before its Superior Court.

Appeal can be filed only if it is specifically allowed by any law and has to be filed in the specified manner in the specified Courts. The expression appeal has not been defined in the Code of Civil Procedure 1908.

## Procedure for Filing An Appeal

### Who Can File an Appeal?

- Any party to the original proceeding or his/her legal representatives.
- Any person claiming under such party or a transferee of interests of such party.
- Any person appointed by the court as the legal guardian of a minor.
- Any other aggrieved person after taking leave of the court.

### Who Cannot?

- A party which has relinquished its right of appeal as per an agreement which is clear and unambiguous.
- A party which has availed the benefits under a decree
- Parties with a consent decree. Consent, in this case, could be a lawful agreement or compromise, or could even be presumed from the conduct of the parties.
- A party, whose factum or compromise are in dispute or hasn't been formulated.
- Parties involved in petty cases.
- No legal representatives are entitled to file an appeal against a deceased person.

## Memorandum of Appeal (Order XLI, Rule 1):

An appeal must be supported with a memorandum of appeal, which is a document comprising of the grounds of appeal. The constituents of a valid memorandum of appeal include:

- The grounds for filing an appeal.
- Signature of the appellant or his/her pleader.
- The attachment of the certified copy of the original judgment.

The appellant, with respect to this provision, is not entitled to take any grounds or objection except the ones mentioned in the memorandum. However, the court may accept such objections on its own accord, provided the opposite party is provided with adequate opportunities to contest such grounds. The memorandum of appeal must contain the grounds of objections to the decree appealed from, concisely, under distinct heads, without any arguments or narrative and should be numbered consecutively. The court has the right to reject or amend any memorandum which it finds to be inappropriate. The court shall record the reasons for such rejection.