

Judicial Principles on Workplace Safety & Freedom from Harassment in Sri Lanka

What is *ratio decidendi* and why does it matter?

In Sri Lankan courts, the *ratio decidendi* is the key legal rule or principle that forms the basis of a court's decision. It explains why the court reached its conclusion, based on the important facts of the case and the law that was applied. Only this core reasoning is binding on future cases—not every comment or observation made by the judge.

Example (workplace harassment): If the Supreme Court decides a case by holding that *sexual harassment by a supervisor violates a worker's right to equality and dignity at work*, that principle is the *ratio decidendi*. In later cases with similar facts, lower courts and tribunals must follow this principle, even if the details of the workplace or sector are different.

How is the binding nature enforced in Sri Lanka?

The binding force of *ratio decidendi* comes from the **hierarchy of courts** and the principle of **stare decisis** (following decided cases):

- **Supreme Court decisions are binding on all lower courts and tribunals** in Sri Lanka.
- **Court of Appeal decisions are binding** on lower courts and quasi-judicial bodies unless the Supreme Court has ruled otherwise.
- If a lower court or authority **fails to follow a binding principle**, its decision can be:
- **Set aside on appeal**, or
- **Corrected through judicial review or revision.**

In practice, this means that **labour tribunals, disciplinary boards, and public authorities are expected to apply the legal principles laid down by higher courts**, even when the statute is silent or unclear. Ignoring the *ratio decidendi* of a higher court risks the decision being overturned.

Why this matters for workplace policies

For trade unions and employers, until a comprehensive law against violence and harassment in the workplace is enacted, this means that **workplace policies and procedures should reflect the principles already recognised by the courts**, because those principles are **not optional guidance**—they are part of the law as applied in Sri Lanka.

සේවා ස්ථාන තුළ ආරක්ෂාව සහ හිරිහැරවලින් නිදහස් වීම පිළිබඳ අධිකරණ මූලධර්ම

Ratio Decidendi (රේෂියෝ ඩෙසිඩෙන්ඩ්) යනු කුමක්ද සහ එය වැදගත් වන්නේ ඇයි?

Ratio decidendi යනු නඩුවේ හරයයි. වැදගත් කරුණු සහ ක්‍රියාත්මක කරන ලද නීතිය මත පදනම්ව අධිකරණය එහි නිගමනයට පැමිණියේ මන්දැයි එය පැහැදිලි කරයි. මෙම මූලික තර්-කය පමණක් අනාගත නඩු බැඳ තබයි. විනිසුරුවරයා/මඩුල්ල විසින් ඉදිරිපත් කරන සෑම අදහසක් හෝ ප්‍රකාශිත නිරීක්ෂණයක්ම නඩුවේ හරයට අදාළ නොවිය හැක.

උදා: ඉහල නිලධාරියකු විසින් ලිංගික හිරිහැර කිරීම සේවකයෙකුට රැකියාවේදී සමානාත්මතාවය සහ ගෞරවය සඳහා ඇති අයිතිය උල්ලංඝනය කරන බවට ශ්‍රේණිගත අධිකරණය ප්‍රකාශ කරන්නේ නම් , එම මූලධර්මය නඩුවේ ratio decidendi ලෙස සලකනු ලැබේ. සමාන කරුණු සහිත පසුකාලීන අවස්ථා වලදී, සේවා ස්ථානයේ හෝ අංශයේ විස්තර වෙනස් වුවද, පහළ අධිකරණ සහ විනිශ්චය සභා මෙම මූලධර්මය අනුගමනය කළ යුතුය.

ශ්‍රී ලංකාව තුළ එවන් නඩු තීන්දු මූලික අධිකරණ තුළ බලාත්මක කරන්නේ කෙසේද?

Ratio decidendi හි බන්ධන බලය පැමිණෙන්නේ අධිකරණවල දුරාවලියෙන් සහ තීරණාත්මක තීරණය කිරීමේ මූලධර්මයෙනි. එනම්:

- ශ්‍රේණිගත අධිකරණ තීන්දු ශ්‍රී ලංකාවේ සියලුම පහළ අධිකරණ සහ විනිශ්චය සභාවලට බැඳී පවතී.
- ශ්‍රේණිගත අධිකරණය වෙනත් ආකාරයකින් තීන්දු කර නොමැති නම්, අභියාචනාධිකරණ තීන්දු පහළ අධිකරණ සහ අධිර් අධිකරණ ආයතනවලට බැඳී පවතී .
- පහළ අධිකරණයක් හෝ අධිකාරියක් බැඳීමේ මූලධර්මයක් අනුගමනය කිරීමට අපොහොසත් වුවහොත් , එහි තීරණය විය හැක්කේ:
- අභියාචනය මත පසෙකට දමන්න , හෝ
- අධිකරණ සමාලෝචනය හෝ සංශෝධනය හරහා නිවැරදි කරන ලදී .

ප්‍රායෝගිකව, මෙයින් අදහස් කරන්නේ, පනතක් නිහඩ හෝ අපැහැදිලිව තිබියදී පවා, කම්කරු විනිශ්චය සභා, විනය මණ්ඩල සහ රාජ්‍ය බලධාරීන් ඉහළ අධිකරණ විසින් නියම කර ඇති නීතිමය මූලධර්ම ක්‍රියාත්මක කිරීමට අපේක්ෂා කරන බවයි . ඉහළ අධිකරණයක ratio decidendi නොසලකා හැරීම තීරණය අවලංගු කිරීමේ අවදානමක් ඇත.

සේවා ස්ථාන ප්‍රතිපත්ති සඳහා මෙය වැදගත් වන්නේ ඇයි?

වෘත්තීය සමිති සහ සේවා යෝජකයින් සඳහා, සේවා ස්ථානයේ ප්‍රවණ්ඩත්වයට සහ හිරිහැරයට එරෙහිව පුළුල් නීතියක් පනවන තුරු, මෙයින් අදහස් කරන්නේ සේවා ස්ථාන ප්‍රතිපත්ති සහ ක්‍රියා පටිපාටි අධිකරණය විසින් දැනටමත් හඳුනාගෙන ඇති මූලධර්ම පිළිබිඹු කළ යුතු බවයි , මන්ද එම මූලධර්ම විකල්ප මඟ පෙන්වීමක් නොවන බැවිනි - ඒවා ශ්‍රී ලංකාවේ ක්‍රියාත්මක වන පරිදි නීතියේ කොටසකි.

Decided cases of the Supreme Court and Court of Appeal on sexual harassment in the workplace

1. *P.S. Manohari Pelaketiya v. H.M. Gunasekera & Others* (SC/FR 76/2012)

A teacher in a government school alleged **sexual harassment and gender-based discrimination** by an employer/government official in employment.

The Supreme Court held that **sexual harassment in employment can violate fundamental rights**, specifically **Article 12 (equality before the law) and Article 14(1)(a)** (freedom of expression and related personal liberty), as such conduct seriously impairs equality and dignity at work.

The Court applied **constitutional protections** to workplace conduct, underscoring that oppressive, burdensome, or discriminatory conduct in employment can constitute a **violation of fundamental rights** (including harassment that undermines workplace dignity).

Key Principles (Criminal Harassment):

Alongside the fundamental rights claim, the case also referenced the **offence of sexual harassment** under **Section 345 of the Penal Code** (as amended), which criminalises “unwelcome sexual advances or conduct” in the workplace and other settings, highlighting the penal law’s relevance to workplace harassment.

Impact for Workplace Safety:

The judgment recognises that **workplace harassment is not only disciplinary but can violate fundamental rights** and criminal law, reinforcing the need for effective employer mechanisms to prevent and address such conduct.

2. *Sri Lanka Airlines Ltd v. P.R.S.E. Corea* SC Appeal No. 91/2017 (Workplace Sexual Harassment Conduct)

This appeal concerned allegations of **sexual harassment by a senior flight steward** against a colleague.

Key Judicial Observations:

The Supreme Court found that the respondent’s conduct — including **unwanted physical contact and suggestive behaviour** — **tarnished the workplace environment** and undermined the dignity and confidence of the aggrieved worker.

While the Court’s reasoning extends from misconduct towards workplace safety and employee dignity, commentators note that the decision emphasised that **employers and entities must be unyielding in addressing sexual harassment** in both **private and public sectors** and must ensure a safe, respectful workplace.

Impact for Workplace Safety:

This case underlines that **hostile or disrespectful conduct** in work settings can affect organisational reputation, employee morale, and the safety of the workplace — supporting the need for explicit workplace policies and enforcement mechanisms.

3. *Kachchakaduge Frank Romeo Fernando v. Brandix Apparel Solutions Ltd.* (Work Environment & Employer Responsibility)

Although not a typical harassment appeal, in its reasoning the Supreme Court **affirmed that an employer has a duty to provide a safe and supportive work environment.**

Judicial Principle:

The Court acknowledged that **sexual harassment affects workplace morale and productivity** and stated that employers must address such conduct to maintain a safe environment for employees.

In upholding that punitive measures (such as transfer following misconduct) were justified, the Court articulated the **responsibility of employers to act decisively** when workplace conduct undermines safety and dignity.

Impact for Workplace Safety:

This judgment reinforces the **employer's institutional obligation**: that maintaining a safe work environment is essential to productivity and organisational well-being.

4. *Prima Ceylon Ltd (Court of Appeal Judgment CA/HCC/0328/2015)*

A young woman employed by Prima Ceylon alleged **sexually harassing conduct by her supervisor**, including being asked to work alone after hours and unwanted physical interactions.

“The High Court Judge of Trincomalee acquitted the accused on the basis that he is giving the benefit of the doubt in favour of the accused.

Although the Hon. Attorney General has thought it fit not to appeal the acquittal of the accused, the PW-01 of the indictment (the aggrieved party) who faced the incidents of sexual harassment has filed an application in terms of section 16 of the Judicature Act No. 2 of 1978 seeking leave to appeal from the Court of Appeal to file an appeal against the said acquittal.

The main reason for the acquittal had been the alleged delay by the aggrieved party to lodge a complaint in this regard to the police. It was also pointed out that the learned High Court Judge's decision has been influenced on the basis that the prosecution has failed to establish any sexual gratification, which was a complete misdirection as to the relevant ingredients that need to be proved in a case of sexual harassment....

Therefore, what matters is not the number, but the quality of the witness. If the witness is cogent and trustworthy as in the case under appeal, such evidence can be relied upon.”

Judicial Reasoning (Evidence Standards):

The Court reiterated that when evaluating sexual harassment allegations, **direct corroboration by other witnesses is not the sole measure of credibility**; the **context, conduct, and testimony of the complainant** must be weighed holistically.

This principle acknowledges reporting barriers that victims face, especially when harassment occurs in isolated workplace circumstances.

5. AG V Wickramathilaka (13.6.2025; SC 159/23)

“...What is more important is the **two words ‘annoyance or harassment’ found in Section 345 of the Penal Codeinnately indicate that the offensive act has to be done against the consent or wishes or likings or expectations (hereinafter these mental elements will be referred to as ‘against the consent or wishes’ or ‘without the consent or wishes’ or by using similar terms) of the purported victim.** Thus, there is always a mental element involved in proving the offence contained in Section 345 of the Penal Code. **If the alleged offense contains a mental element, it has to be proved by the Prosecution.**To call for defense, as the learned SASG contends, at least there must be a prima facie case placed before the Judge including facts relevant to such mental elements...”