

Course Name	LL.B 4 th sem
Subject	Environment Law
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Concept	National Green Tribunal , 2010

National Green Tribunal Act, 2010

16. Tribunal to have appellate jurisdiction.

Any person aggrieved by,-

- a. an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974;
- b. an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974;
- c. directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974;
- d. an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977;
- e. an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;
- f. an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981;
- g. any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986;
- h. an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;
- i. an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986;
- j. any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002, may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

17. Liability to pay relief or compensation in certain cases.

1. Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.
2. If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.
3. The Tribunal shall, in case of an accident, apply the principle of no fault.

18. Application or appeal to Tribunal.

1. Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.
2. Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by-
 - a. the person, who has sustained the injury; or
 - b. the owner of the property to which the damage has been caused; or
 - c. where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or
 - d. any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or
 - e. any person aggrieved, including any representative body or organisation; or
 - f. the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 or any other law for the time being in force:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application:

Provided further that the person, the owner, the legal representative, agent, representative body or organization shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organization have preferred an appeal under section 16.

3. The application, or as the case may be, the appeal filed before the Tribunal under this Act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application, or, as the case may be, the appeal, finally within six months from the date of filing of the application, or as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

19. Procedure and powers of Tribunal.

1. The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.
2. Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.
3. The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872.
4. The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-
 - a. summoning and enforcing the attendance of any person and examining him on oath;
 - b. requiring the discovery and production of documents;
 - c. receiving evidence on affidavits;
 - d. subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;
 - e. issuing commissions for the examination of witnesses or documents;
 - f. reviewing its decision;
 - g. dismissing an application for default or deciding it ex parte;
 - h. setting aside any order of dismissal of any application for default or any order passed by it ex parte;

- i. pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;
 - j. pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;
 - k. any other matter which may be prescribed.
5. All proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

20. Tribunal to apply certain principles.

The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

21. Decision to be taken by majority.

The decision of the Tribunal by majority of Members shall be binding: Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard earlier such application or appeal) such application or appeal and decide:

Provided further that where the Chairperson himself has heard such application or appeal alongwith other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally decided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide

22. Appeal to Supreme Court.

Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908: Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

23. Cost.

1. While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary.
2. Where the Tribunal holds that a claim is not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunction.

24. Deposit of amount payable for damage to environment.

1. Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section.
2. The amount of compensation or relief credited to the Environmental Relief Fund under sub-section (1), may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed.

25. Execution of award or order or decision of Tribunal.

1. An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.
2. Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.
3. Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.