

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1847 of 2016

*[EFU General Insurance Ltd., vs. M/s. Emirates Airline /
Emirates Sky Cargo and 4 others]*

along with

Suit No.1836 of 2016

*[EFU General Insurance Ltd., vs. M/s. Hong Kong Dragon Airlines and 3
others]*

Suit No.1837 of 2016

*[M/s. Jubilee General Insurance Co. Ltd vs. M/s. Emirates Airline /
Emirates Sky Cargo and another]*

Suit No.1838 of 2016

*[M/s. IGI Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo
and 2 others]*

Suit No.1839 of 2016

*[M/s. IGI Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo
and another].*

Suit No.1840 of 2016

*[M/s. IGI Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo
and another]*

Suit No.1842 of 2016

*[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky
Cargo and 2 others]*

Suit No.1844 of 2016

*[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky
Cargo and 4 others]*

Suit No.1845 of 2016

*[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky
Cargo and 5 others]*

Suit No.1846 of 2016

*[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky
Cargo and 4 others].*

Suit No.1848 of 2016

*[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky
Cargo and 3 others]*

Suit No.1849 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo 3 others]

Suit No.1850 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo and 3 others]

Suit No.1851 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo and 3 others]

Suit No.1852 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo and 3 others]

Suit No.1853 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo and another]

Suit No.1854 of 2016

[M/s. EFU General Insurance Ltd., vs. M/s. Emirates Airline / Emirates Sky Cargo and another]

Suit No.1855 of 2016

[M/s. EFU General Insurance Ltd., vs. Emirates Airline / Emirates Sky Cargo and others].

Dates of hearing : 23.04.2019, 15.05.2019, 20.05.2019, 28.05.2019 and 17.12.2019.

Plaintiff(s) : Through Mr. Mazhar Imtiaz Lari, Advocate.

Defendants : Through M/s. Furkan Ali, Agha Zafar Ahmed, Adeel Abid, Advocates for different Defendants.

Law under discussion:

- (1) Carriage by Air Act, 2012 [**CAR**].
- (2) The Anti-Terrorism Act, 1997 [**ATA**].
- (3) The Code of Civil Procedure, 1908 [**CPC**].
- (4) Limitation Act, 1908 [**Limitation Law**].
- (5) Transfer of Property Act, 1882. [**Property Law**].

Other Precedents, Books and Research material

- i. Cases and Materials on International Law
by *Martin Dixon & Robert Mccorquodale (Second Edition)*
- ii. The Manual of International Humanitarian Law
by *Dieter Fleck*.
- iii. International Humanitarian Law
A Comprehensive Introduction (Nils Melzer).

DECISION

Muhammad Faisal Kamal Alam, J: Due to commonality, question of maintainability of all the titled suits are decided by this decision.

2. Plaintiffs have filed separate suits in respect of monetary claims against the Defendants. Merely as a reference, Prayer Clause in leading Suit No.1847 of 2016 is reproduced herein under_

“The Plaintiff, therefore, pray for Judgment and Decree for Rs.8,00,71,631.00 against the Defendants No.1 and 2 jointly and severally with cost and interest / mark-up / damages / compensation @19% per annum, with quarterly rest thereon pendentelite and future and for any other or better relief which the Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. Upon issuance of summons and notices, Defendants contested the claims of Plaintiff(s) in different suits by filing their individual Written Statements. Plaintiffs and Defendants also filed their proposed Draft Issues, which are available in the record.

4. In the intervening period, in Suits No.1837, 1840 and 1854 of 2016, interlocutory Applications were filed by Defendants (Airlines/carriers)

under Order VII Rule 11 of CPC, for rejection of complaints. In these applications (under Order VII Rule 11 of CPC) and also in Written Statements, Defendants (Air Carriers) and their local handling Agent, viz. Defendant-Gerry Dnata (Private) Limited *{the contesting defendants}* have questioned the maintainability of all these suits primarily on two legal grounds;

(i) that these suits are barred by limitation prescribed in Rule-35 of the Carriage by Air Act, 2012 (CAR), and

(ii) these *lis* are also barred under Rule-18, sub-rule-2(c) of the Fourth Schedule of CAR (the Carriage of Air Act, 2012) because the intense fighting between attackers / militants and personnel of Law Enforcement Agencies of Pakistan at the Jinnah International Airport (JIAP) falls within the term of Armed Conflict as envisaged in above provision; therefore, the exemption from any liability as contained in the above Rule-18(2)(c) relating to an Act of War or an Armed Conflict, is applicable in all these cases.

5. On 22.04.2019 and subsequent dates, all learned Advocates for Plaintiffs and Defendants have made their respective submissions. On 10.12.2019 some clarification was required, therefore, matter was fixed for rehearing on 17.12.2019.

6. Plaintiffs in all suits are Public Limited Insurance Companies and have filed these cases against Defendants for recovery of amounts, which the Plaintiffs have paid (purportedly) to their respective clients as insurance claims in relation to various cargoes destroyed on the night and early morning of 8th and 9th June, 2014, at the Jinnah International Airport (**Karachi Airport**) during an armed attack by a group of terrorists. In complaints of different suits, specific details about various consignments are mentioned, which arrived at Karachi Airport through different Defendant-

International Airlines (mentioned in the title). It is stated in the plaint that since Plaintiffs have settled the insurance claims faithfully of their different clients whose consignments/cargoes were destroyed in the warehouses at Karachi Airport, thus Plaintiffs being insurers, are now entitled to claim those amounts from Defendants, *inter alia*, in terms of Section 135-A of the Transfer of Property Act (*Property Law*).

7. Since the incident at Karachi Airport is not disputed, therefore, it was agreed by all the learned Advocates that at this stage both issues of limitation (under Rule 35, *ibid*) and Armed Conflict [under Rule 18 (2)(c)] can be decided. Since submissions of the learned Advocates have primarily revolved around the above two provisions of CAR, therefore, it is necessary to reproduce the same herein under:-

“18. Damage to cargo.—(1) The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

(2) However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

- (a) inherent defect, quality or vice of that cargo;***
- (b) defective packing of that cargo performed by a person other than carrier or its servants or agents.***
- (c) an act of war or an armed conflict***
- (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.***

(3) The carriage by air within the meaning of paragraph 1 of this rule comprises the period during which the cargo is in the charge of the carrier.

(4) The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed,

subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.”

“35. Limitation of actions.---The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.”

(Underlined for emphasis)

8. The learned Advocate for Plaintiffs has relied upon the following case law and research material in support of his arguments_

- i. PLD 2002 Supreme Court page-841
[Muhammad Mushtaq vs. Muhammad Ashiq and others).
- ii. United States Court of Appeals Oct. 15, 1974
[Pan American World Airways Inc. vs. The Aetna Casualty & Surety Co., and others] – Pan American case.
- iii. International Committee of the Red Cross (ICRC) Opinion Paper, March 2008.
- iv. Institute of Cargo Clauses (AIR) (excluding sending by Post).
- v. A Report on the applicability of IHL to terrorism and counterterrorism.
- vi. Chambers 28th Century Dictionary (New Edition 1983).
- vii. Terrorism Risk Insurance Act.
- viii. Contracts of Carriage By Air [Second Edition by Malcolm Clarke] Lloyd’s List Condon 2010.
- ix. True Translation of FIR No.87 of 2004 lodged at Police Station Karachi Airport on the fateful day when Karachi Airport was attacked.
- x. A copy of Wikipedia relating to ‘2014 Jinnah International Airport Attack’.
- xi. Anti-Terrorism Act, 1997.

- xii. Black's Law Dictionary (Sixth Edition).
- xiii. Committee Final Report vis-à-vis The Hague Conference, 2010 on 'Use of Force'.
- xiv. Relevant pages from the Book 'Defining Armed Conflict' by Natasha Balendra.

9. Mr. Mazhar Imtiaz Lari, Advocate for the Plaintiffs, read the contents of the afore referred FIR in support of his arguments, submitting that the version of the State in the FIR itself mentions the attack at the Karachi Airport as a terrorist attack in which precious lives including that of personnel belonging to law enforcement agencies were lost, besides causing other collateral damages. It is argued by learned counsel that the term '*Armed Conflict*' has to be interpreted in a limited sense, and an attack which can be termed as a terrorist attack does not fall within the purview of '*armed conflict*' or an '*act of war*' as mentioned in the above Rule-18(2)(c) of the CAR, because Geneva Conventions only recognises two distinct categories of armed conflicts; international and non-international. Usually an international Armed Conflict arises between two or more high contracting parties, which are States or Countries. The learned counsel for the Plaintiffs submitted that; despite considerable damage to life and property, and international and local media attention, the incident at the Karachi Airport was a terrorist attack as defined in Section-6 of the ATA Law. He has relied upon the case of Mushtaq (*ibid*) in which the Hon'ble Supreme Court has explained an act of terrorism in the following words_

“7. It would thus appear that ordinary crimes are not to be dealt with under the Act. A physical harm to the victim is not the sole criterion to determine the question of terrorism. What is to be seen is the psychological effect produced by the violent action or with the potential of producing such an

effect on the society as a whole or a section thereof. There may be a death or injury caused in the process. Thus where a criminal act is designed to create a sense of fear or insecurity in the minds of the general public disturbing even tempo of life and tranquillity of the society, the same may be treated to be a terrorist act. There may be just a few killings, random or targeted, resorted to with single mindedness of purpose. But nevertheless the impact of the same may be to terrorise thousands of people by creating a panic or fear in their minds”.

10. The Plaintiffs’ counsel has referred to the afore referred dictionaries containing the meaning of terrorism, armed and conflict, respectively_

- *Terrorism. “Act of terrorism” means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and appears to be intended—(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion, or (iii) to affect the conduct of a government by assassination or kidnapping.*
- *Armed furnished with arms: provided with means of defence: thorny: with beak, claws, etc., of such and such a tincture (her).*
- *Conflict kon’flikt, n. violent collision: a struggle or contest: a battle: a mental struggle.---v.i. (k^on-flickt’) to fight: contend: to be in opposition: to clash.*

11. The definition of terrorism as contained in Terrorism Risk Insurance Act, 2002 (USA Statute) is also relied upon by Plaintiffs’ counsel, which for ready reference is mentioned herein under_

Definition of terrorism

“The term ‘act of terrorism’ is defined in the act as: any act certified by the Secretary of the Treasury, in concurrence with the Secretary of State and Attorney General, to be an act that is dangerous to human life, property, or infrastructure and to have resulted in damage within the U.S. (or outside the U.S. in the case of a U.S. flagged vessel, aircraft or premises of a U.S. mission). It must be committed

as part of an effort to coerce U.S. civilians or to influence either policy or conduct of the U.S. Government through coercion. The definition includes both foreign and domestic terrorists. The Secretary may not delegate this certification authority and his or her decision to either certify an act of terrorism is not subject to judicial review.”

12. Learned counsel for Plaintiffs also referred to Standard Clauses relating to contract of Carriage as contained under ‘Institute Cargo Clauses (AIR)’, to fortify his arguments that war, civil war, rebellion and insurrection, hostile act by or against a belligerent power are mentioned separately and hence distinct from an act of terrorism, which can be carried out by any person or organisation, and includes overthrowing or influencing by force or violence of any government whether or not legally constituted.

As per submissions on behalf of Plaintiffs, it is sub-Rules (1), (3) and (4) of Rule 18 (*ibid*) which will govern the subject incident and damage sustained. These Rules relate to the liability of a carrier, in this case the present Defendants Airlines, in the event of destruction or loss, or damage to, cargo. Rule (3) clarifies that the carriage by air comprises the period during which cargo is in the charge of the carrier. Therefore, it is submitted, that since all the consignments / cargoes in question were destroyed in the warehouse of Defendants-Handling Agents of Defendant-Airlines / carriers, thus these contesting Defendants are jointly and severally liable for the amount of compensation claimed.

13. It is contended by the Plaintiffs that in the Pan American case (*supra*), the United States Court of Appeals, affirmed the decision of District Court, which had repelled the arguments of Insurance Company that the Pan American Airliner, which was destroyed during hijacking, was

a result of a situation falling within the ambit of war, civil war, rebellion and insurrection. Amongst other findings, it was held that hijacking committed by the two members of Popular Front for the Liberation of Palestine (PFLP) did not fall within the purview of any of the exclusion clauses of Insurance Policy relating to war, insurrection civil commotion or war like operation because that particular incident of hijacking was not a large scale violence. The learned counsel for Plaintiffs draws parallel between the above cited case and the present cases, that an unfortunate terrorist attack at the Karachi Airport cannot be viewed as a large scale violence and hence was not an Act of War or an '*Armed Conflict*' as mentioned in the above CAR, hence Defendants are liable to pay the claims of Plaintiffs.

14. It is contended that the '*Armed Conflict*' has to be used in a narrow sense, and *only* in the context of International Human Rights Law (IHL), *inter alia*, because once an 'armed conflict' starts by one high contracting State (Country) against the territory of another State, resultantly, Geneva Conventions become applicable, but this might not happen when Government of a State is tackling with some militia or groups creating law and order situation within its borders, as was continuously and successfully being done by the law enforcement agencies in Pakistan. It was argued that undisputedly all the attackers (terrorists) were killed in the Anti-Terrorist Operation by the Law Enforcement Agencies of Pakistan during the incident at Karachi Airport, and as per official version, all the attackers were foreigners of Uzbek origin; however Uzbekistan did not claim the bodies of the attackers, hence this shows that, had it been an incident classifiable as an '*Armed Conflict*', then at the very least International Red

Cross or some other international or local organisations dealing with humanitarian aid would have come forward.

15. The learned Advocate for the Plaintiffs has also cited Rule 50 of the CAR, that Defendants' Airlines (Carriers) are required to maintain adequate insurance coverage for their liabilities and it is mandatory for carriers to have comprehensively insured all the Cargoes, which were placed under their custody for transportation.

16. The second part of arguments of Plaintiffs' legal team is about the period of limitation, the crux of which is this that the carriage of the cargoes has not concluded hence the claim of the Plaintiffs is within the period of limitation. To support this argument the Plaintiffs have relied on certain pages of the Book – *Contract of Carriage by Air (Second Edition)* in which a comparative discussion on Article-35 of Montreal Convention, which is now incorporated in the above referred CAR, and Article-29 of the Warsaw Convention, is made. The relevant part applicable to the facts of the present case, as argued, is found in Paragraph-7 on Page 184 of the aforesaid book, which states that a 'Carriage Ceases' not when the physical movement of the baggage or cargo stops nor at the time of arrival of the cargo, but rather the carriers responsibility ends when the cargo is handed over to the claimant. It is submitted by the Advocate for the Plaintiffs that Rule-35 of CAR, and Article 35 of Montreal Convention, is *only activated* when the Carriers (in the present case, Defendants' Airlines) responsibility comes to its end; hence as the Defendant-AirDanata was the handling Agent of Defendant-Airlines, therefore, shifting of different consignments / cargoes in the warehouses of Defendant-AirDanata did not mean that

cargoes in question were handed over to consignees, but rather were still in the custody of Defendant-Airlines at the time when warehouses at Karachi Airport were destroyed due to the terrorist attack.

17. M/s. Furkan Ali and Adeel Abid, Advocates, representing contesting Defendants in the title suits have supplemented each others arguments, gist of which is that_

- all the claims in these suits are time barred, as these *Lis* were filed after the two years' time prescribed in Rule-35 of the Fourth Schedule of CAR.
- the above rule is to be strictly interpreted and the rule of interpretation relating to Limitation Law (as applicable in Pakistan) is not applicable;
- even otherwise in terms of Section-29 of Local Limitation Law, its applicability is ousted by the above Special Statute-**CAR**;
- that the unique feature of above Rule 35 is that it extinguishes the right to bring a claim of the nature and therefore, it means that the two years' time cannot be extended on any ground whatsoever.

18. The second limb of arguments of Defendants is that_

- the attack at the Karachi Airport was not an isolated incident of terrorist attack but at the relevant time State of Pakistan was at War with terrorist groups and armed militias, which is a matter of record, thus Rule-18, (2)(c) is fully attracted to the undisputed facts of present case and contesting Defendants are not liable to pay any monetary claim to Plaintiffs, *inter alia*, because the loss / damage to different consignments / cargoes did not result from any negligence, act or omission either on the part of the Carrier or its Agents,

viz. contesting Defendants, but solely due to the above armed confrontation between the Law Enforcement Agencies of Pakistan and armed militants;

- that it was a *force majeure* beyond control of any of the parties;
- that term '*Armed Conflict*' as used in the above Rule -18(2) (c), and interpreted by different international bodies, courts and tribunals in multiple jurisdictions, will apply to the subject incident at Karachi Airport;
- that the decision handed by our Apex Court in the case of District Bar Association, Rawalpindi versus Federation of Pakistan (**Military Courts case**), reported in PLD 2015 Supreme Court page-401, various incidents of terrorism have been cited, including attack on civilian airports and collectively they were termed as an act of War;
- that different incidents of terrorism had occurred in Pakistan in that period and were of such a scale that the terror incident at Karachi Airport cannot be considered in isolation but was a continuation of other organized, unlawful and sabotage activities carried out by proscribed groups and militia.

19. Following case law and research material is relied upon by the legal team of Defendants_

- i. PLD 2015 Supreme Court page-401
[*District Bar Association, Rawalpindi vs. Federation of Pakistan*]
- ii. National Consumer Disputes Redressal
[*Indian Airlines Ltd. Vs. Ashok Gupta & Anr*]
- iii. 1986 SCMR page-890
[*Messrs Kuwait Airways Corporation vs. Messrs Union Surgical Company*].

- iv. PLD 1962 Dacca page-31
[New Zealand Insurance Co. Ltd., Chittagong vs. M.A. Rouf and others].
- v. 2000 MLD page-1454 [Karachi]
[Shahanshah Hussain vs. Messrs Thai Airways International Limited].
- vi. AIR 1960 Supreme Court page-1058
[East and West Steamship Co., George Town, Madras vs. S.K. Ramalingam Chettiar].
- vii. PLD 1976 Karachi page-184
[Pakistan International Airlines Corporation, Karachi vs. Shaikh Muhammad Yunus].
- viii. Case law from foreign jurisdiction – Juan Carlos Abella *versus* Argentina. Before Inter-American Commission on Human Rights.
- ix. International Committee of the Red Cross (ICRC) Opinion Paper, March 2008 {How is the Term ‘Armed Conflict’ Defined in International Humanitarian Law}.
- x. International Law (sixth edition) by Malcolm N. Shaw.
- xi. Commentary on Montreal Convention, By Prof. Dr. Elmar Giemulla.

20. Mr. Agha Zafar Ahmed, Advocate represents Damco Pakistan (Private) Limited, which has been impleaded as one of the proforma Defendants being mentioned as consignee in Master Airway Bills. In its Written Statement, this Defendant has questioned maintainability of suits in a formal manner. Learned Advocate, therefore, has confined his arguments to the extent of development of civil aviation law in relation to terrorism. He has filed copies of the Conventions for suppression of unlawful acts in connection with civil aviation services at the airports. Learned Advocate has also filed a list of Proscribed Organizations issued by NACTA (National Counter Terrorism Authority, Government of Pakistan), under Section 11-B read with Schedule – I of ATA (Anti-Terrorism Act, 1997) and cited the case law – P L D 1958 Supreme Court

(Pakistan) 138 (*The Hanover Fire Insurance Company versus Messers Muralidhar Banechand*), that statutes be interpreted and applied, as far as its language admits, as not to be inconsistent with the comity of nations, or with the established rules of international law.

21. Arguments heard and record of the present Cases (*Lis*) as well as case law and other research materials produced by the learned Advocates for the parties have been considered.

22. First the issue of the scope of ‘armed conflict’ will be determined.

23. Since there is a direct nexus between Armed Conflict and International Humanitarian Law (*IHL*), and since the Plaintiffs have argued that Armed Conflict consist of only those situations covered by IHL, it may be advantageous to give a brief introduction of IHL, which is increasingly perceived as part of human rights law but applicable only in armed conflict¹. In the book “The Manual of International Humanitarian Law” by *Dieter Fleck (ibid)*, while describing the historical origins of IHL has made reference to the development of war rules during Islamic Era, in particular, since the time of the First Caliph, Hazrat Abu Bakar (R.A), who in his orders to his commanders, directed that ‘The blood of women, children and old people shall not stain your victory. Do not destroy a palm tree, nor burn houses and cornfields with fire, and do not cut any fruitful tree. You must not slay any flock or herds, save for your subsistence.’ The International humanitarian law (IHL) and international human rights law (HRL) as we know today are two distinct but complementary bodies of law. They are

¹ Martin Dixon & Robert McCorquodale, *Cases and Materials on International Law by Martin* (Second Edition) Blackstone Press Limited, Pg. 274-275.

both concerned with the protection of the life, health and dignity of individuals. IHL applies in armed conflict while human rights law applies at all times, in peace and in war.

24. At this juncture one must examine what constitutes Armed Conflict, which is widely recognised as consisting of two types, that is, International Armed Conflict (*IAC*) and Non-International Armed Conflict (*NIAC*). International armed conflict can be explained when there is a resort to armed force between States; existence of an armed conflict is assumed when parts of the armed forces of two States clash with each other, triggering Common Article 2 to the Geneva Conventions of 1949, which *inter alia*, stipulates that the wounded and surrendering members of the armed forces, or civilians of another State, all should be treated humanely.

On the other hand, after going through the afore-referred record and commentaries, the consensual view which emerges for explaining **Non-International Armed Conflict** [*NIAC*] is, that if the internal disturbances and tensions in a country reach a level of confrontation which requires a government to use military force against insurgents in order to forestall and curb hostilities carried out by such groups which are organised, armed, and having command structure; then such a situation falls within the purview of Non-International Armed Conflict [*NIAC*].

Here, it would be necessary to reproduce some paragraphs from the above ICRC Opinion Paper of March, 2008, which has been interpreted by both legal teams of Plaintiffs and Defendants in support of their respective arguments_

“Judgments and decisions of the ICTY (*A) throw also some light on the definition of NIAC. As mentioned above, the ICTY went on to determine the existence of a NIAC "whenever there

is [...] *protracted* armed violence between governmental authorities and organised armed groups or between such groups within a State". The ICTY thus confirmed that the definition of NIAC in the sense of common Article 3 encompasses situations where "several factions [confront] each other without involvement of the government's armed forces". Since that first ruling, each judgment of the ICTY has taken this definition as a starting point.

3) Doctrine

Several recognized authors also commented very clearly on what should be considered as a non-international armed conflict. Their comments are relevant to the conflicts which do not fulfill the strict criteria foreseen in Additional Protocol II and provide useful elements to ensure the application of the guarantees provided in common article 3 to the Geneva Conventions of 1949.

According to H.-P. Gasser, it is generally admitted that "*non-international armed conflicts are armed confrontations that take place within the territory of a State between the government on the one hand and armed insurgent groups on the other hand. [...] Another case is the crumbling of all government authority in the country, as a result of which various groups fight each other in the struggle for power*".

D. Schindler also proposes a detailed definition: "*The hostilities have to be conducted by force of arms and exhibit such intensity that, as a rule, the government is compelled to employ its armed forces against the insurgents instead of mere police forces. Secondly, as to the insurgents, the hostilities are meant to be of a collective character, [i.e] they have to be carried out not only by single groups. In addition, the insurgents have to exhibit a minimum amount of organisation. Their armed forces should be under a responsible command and be capable of meeting minimal humanitarian requirements*".¹⁹⁹

*A. (International Criminal Tribunal Yugoslavia).

International Committee of the Red Cross (ICRC) has extensively discussed applicability of IHL (international humanitarian law) in armed conflicts, the relevant portions thereof are reproduced herein under_

“International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating

in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.

International humanitarian law is part of international law, which is the body of rules governing relations between States.

International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.”

{Underlined to add emphasis}.

Primarily, what is considered to be International Humanitarian Law [IHL], is found in the Four Geneva Conventions of the 1949 and Additional Protocols, relating to the protection of victims of armed conflict. Other agreements also exist, prohibiting the use of certain weapons and providing protection against specific categories of people and goods. These agreements include_

- the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, plus its two protocols;
- the 1972 Biological Weapons Convention;
- the 1980 Conventional Weapons Convention and its five protocols;
- the 1993 Chemical Weapons Convention;
- the 1997 Ottawa Convention on anti-personnel mines;
- the 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

The four Geneva Conventions have come to be internationally binding upon all states: -

Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GC I); -

Geneva Convention II for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GC II); -

Geneva Convention III Concerning the Treatment of Prisoners of War (GC III); -

Geneva Convention IV Concerning the Protection of Civilian Persons in Time of War (GC IV).

The three Protocols Additional to the Geneva Convention are designed to reaffirm and develop the rules embodied in the laws of Geneva Conventions:

Protocol of 8 June 1977 Additional to the Geneva Conventions of 12 August 1949, and Concerning the Protection of Victims of International Armed Conflicts (AP I); -

Protocol of 8 June 1977 Additional to the Geneva Conventions of 12 August 1949, and Concerning the Protection of Victims of Non-International Armed Conflicts (AP II); and –

Protocol of 8 June 2005 Additional to the Geneva Conventions of 12 August 1949, Relating to the Adoption of an Additional Distinctive Emblem (AP III).

25. In her book ‘Defining Armed Conflict’, Natasha Balendra, has discussed in detail the applicability of International Humanitarian Law (**IHL**) and International Human Rights Law (**HRL**) to armed conflict. In the past two decades the world has witnessed various deadly conflicts, which do not necessarily involve the armies of two belligerent States, but instead have taken place between State and armed groups or militias; many of those have gained international notoriety. To some extent the commentary contained in the above Book support the arguments advanced

by the learned counsel for Plaintiffs, insofar that the terrorist acts have been clearly distinguished from the definition of armed conflict. It is concluded that *most* actions taken by sovereign States against terrorist groups cannot be deemed to be part of an Armed Conflict.

26. In the present titled cases, those who attacked the Karachi Airport, were killed in the action. They were not captured or arrested; but, had they been, only then, as per the learned Advocate for Plaintiff, it could have been ascertained that whether they had links with other terrorist groups guilty of committing such concerted activities, at the relevant time and then the entire episode could have been termed as an ‘armed conflict’; but, since the above did not happen, hence, the unfortunate incident was an *isolated* terrorist attack or part of an internal disturbance, Pakistan was facing at the relevant time; hence, above Rule 18(2)(c) has no relevancy to the facts of present cases.

27. The learned counsel for Plaintiffs has further read some portions from the **Final Report** on the meaning of armed conflict in International Law, prepared by the Committee of International Law Association (ILA), in the context of The Hague Conference (2010) On the Use of Force (**Final Report**). It is relevant to reproduce herein under the portion at pages-3 and 12 on which the Plaintiff has relied:

“...many other situations of violence widely acknowledged to be armed conflict, the Inter-American Commission’s finding in the Argentine case appears to involve the least amount of fighting. It is well known that criminal gangs can perpetrate considerable levels of violence even against the armed forces of a state. Still, states have rejected recognizing such situations as “armed conflict”. Criminals generally do not organize themselves to carry out armed conflict with government military

forces. It is also common knowledge that the well-organized armed forces of states often clash, for example, at disputed land or maritime boundaries. States do not, however, classify such incidents as armed conflicts unless they reach a certain level of intensity.”

“In response to this expansion of the parties that could be engaged in an armed conflict to which the rules of Additional Protocol I apply, the U.K. made the following statement upon becoming a party to the Protocol: “It is the understanding of the United Kingdom that the term ‘armed conflict’ of itself and in its context denotes a situation of a kind which is not constituted by the commission of ordinary crimes, including acts of terrorism, whether concerned or in isolation”,⁵² France made a similar statement on becoming a party to the Protocol.⁵³

In addition, in a commentary on Additional Protocol I, Karl Josef Partsch explains that low level uses of force between states comparable to internal disturbances and tensions within states “should also be excluded from the concept of armed conflict as this term is used in Art. 1 of the first Protocol”.⁵⁴ Additional Protocol II is also intended to apply only to intense armed fighting and not mere incidents. The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, provides for its scope of application in Article 1:

Material field of application.

1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Additional Protocol II sets a higher threshold for application than Common Article 3. This was done in order to make its more detailed and demanding rules acceptable to states.⁵⁵ Consequently Additional Protocol II applies only to conflicts that more resemble traditional interstate conflicts—it requires control over territory by organized armed groups. The Protocol does not apply to a situation where there is no government.⁵⁶ Non-state actor armed groups must engage in sustained and concerted operations and be able to implement the Protocol.”

“The ICRC gave the following description of internal disturbances during the first session of the Conference of Government Experts in 1971 that preceded the adoption of the Additional Protocols:

This involves situations in which there is no non-international armed conflict as such, but there exists a confrontation within the country, which is characterized by a certain seriousness or duration and which involves acts of violence. These latter can assume various forms, all the way from the spontaneous generation of acts of revolt to the struggle between more or less organized groups and the authorities in power. In these situations, which do not necessarily degenerate into open struggle, in authorities in power call upon extensive police forces, or even armed forces, to restore internal order. The high number of victims has made necessary the application of a minimum of humanitarian rules.

As regards “internal tensions,” these could be said to include in particular situations of serious tension (political, religious, racial, social, economic, etc.), but also the sequels of armed conflict or of internal disturbances. Such situations have one or more of the following characteristics, if not all at the same time:

--large scale arrests;

--a large number of “political” prisoners;

--the probable existence of ill-treatment or inhumane conditions of detention;

--the suspension of fundamental judicial guarantees, either as part of the promulgation of a state of emergency or simply as a matter of fact;

--allegations of disappearances.

In short, as stated above, there are internal disturbances, without being an armed conflict, when the State uses armed

force to maintain order; there are internal tensions, without being internal disturbances, when force is used as a preventive measure to maintain respect for law and order.

These definitions are not contained in a convention but form part of ICRC doctrine...While designed for practical use, they may serve to shed some light on these terms, which appear in an international law instrument for the first time.
58.”

“Other terrorist attacks since 11 September 2001 have not been treated as armed conflict, but rather have been characterized as crimes. ¹⁵⁰ Police methods, not military force, have been used in response.”

28. It is further explained in the above Final Report [On Use of Force], while quoting well-known commentators on International Law, that if an action against different terrorist groups are termed or perceived as armed conflict, then it would be counter-productive as it would not only alter the jurisprudence of International Law on the subject but it would also lend some sort of a legitimate status to such terrorist groups.

29. The above Final Report also refers to the case of Juan Carlos Abella v. Argentina, Case 11.137, Report No.55/97 (“**Abella case**”). This case is also relied upon by the legal team of Defendants in support of their argument that even one incident as mentioned in this *Abella case*, can constitute an Armed Conflict, because the factors involved in this one incident represent the characteristics of an Armed Conflict and thus Plaintiffs contention that the attack at Karachi Airport was an isolated incident and not an Armed Conflict, is misconceived in nature. Even though, in rebuttal the learned Advocate for the Plaintiffs has attempted to distinguish the facts of the *Abella case*, arguing, that in this case admittedly Argentinian insurgents attacked a Military Base in Argentina, *whereas*, Karachi Airport is not a Military installation but a civilian airport.

Per the arguments on behalf of the Plaintiffs, it was submitted further, that since all the attackers in the present case were killed by Law Enforcement Agencies at the Karachi Airport, therefore, whether or not they would have been treated under rules of **IHL** (International Humanitarian Law) or not, cannot be determined in these circumstances and, therefore, in the subject *lis* applicability of any concept of Armed Conflict be ruled out

30. On the other hand research articles, judicial precedent(s), and commentaries in various books, relied upon by the legal team of Defendants, specifically address the issue of non-international armed conflict (*NIAC*). Malcom Shaw, in his book 'International Law' (Sixth Edition), is of the view that *NIAC* range from full scale civil war to relatively minor disturbances. Similarly, in one of the commentaries on Montreal Convention by Professor Dr. Elmar (*supra*), the paragraph-2(c) (*ibid*) concerning an act of war or armed conflict has been explained to include terrorist attacks.

In this book, the afore referred Abella case has also been discussed, *inter alia*, from the perspective of applicability of International Humanitarian Law (*IHL*) and International Human Rights Law (*HRL*).

31. The much discussed case of *Abella Case* is examined here by this Court. In this case a complaint was filed before the Inter American Commission on Human Rights (*the Commission*) on behalf of one of the convicts, who was given a sentence of 10 (ten) years imprisonment by the Argentinean Court. Basic facts were that 42 armed persons launched an attack on the Military Barracks on January 23 and 24, 1989 in Buenos Aires

Province of Argentina. The decision of this case states that even though the Military Barrack was retaken in a military operation that lasted only thirty hours (approximately), but besides loss of lives, members of an armed political group were also subjected to excessive persecution and some of them were prosecuted and sentenced by the local courts of Argentina. The issue which arose that whether the above incident was an internal disturbance or tensions, or, an internal armed conflict. The Commission concluded in affirmative that the armed confrontation in the *Abella Case* warrants applicability of Common Article 3 of the Geneva Convention, relating to non-international armed conflict, in the following words_

“iii. Characterization of the events at the La Tablada base

154. Based on careful appreciation of the facts, the Commission does not believe that the violent acts at the La Tablada military base on January 23 and 24, 1989 can be properly characterized as a situation of internal disturbances. What happened there was not equivalent to large scale violent demonstrations, students throwing stones at the police, bandits holding persons hostage for ransom, or the assassination of government officials for political reasons—all forms of domestic violence not qualifying as armed conflicts.

155. What differentiates the events at the La Tablada base from these situations are the concerted nature of the hostile acts undertaken by the attackers, the direct involvement of government armed forces, and the nature and level of the violence attending the events in question. More particularly, the attackers involved carefully planned, coordinated and executed an armed attack, i.e., a military operation, against a quintessential military objective - a military base. The officer in charge of the La Tablada base sought, as was his duty, to repulse the attackers, and President Alfonsín, exercising his constitutional authority as Commander-in-Chief of the armed forces, ordered that military section be taken to recapture the base and subdue the attackers.

156. The Commission concludes therefore that, despite its brief duration, the violent clash between the attackers and members of the Argentine armed forces triggered application of the provisions of Common Article 3, as well as other rules relevant to the conduct of internal hostilities.”

32. It is to be seen that whether the above attack by an armed group claiming to be a part of proscribed organisation (TTP) [as per the record produced in these cases] was/is governed by the criteria of Non-International Armed Conflict (*NIAC*) and will the Rule 18(2)(c) apply, exonerating the contesting Defendants from liability to pay the amounts as claimed by Plaintiffs.

Taking into consideration the above case law, commentaries, reports and research material, the crux of which is that a non-international armed conflict (*NICA*) is said to be in existence, when there are hostilities between armed forces of a State and organised armed groups (militias) having a command structure, recruits and conduct military training and has ability to plan, coordinate and carry out military operations, which in fact has been done within the territory of a State (Country) for a considerable period of time and the hostility and violence has gained a certain degree of momentum.

33. In view of the above discussion, the attack at the Karachi Airport, cannot only be termed as a terrorist attack, but was rather part of a wider armed conflict within the state of Pakistan. The attackers were personnel of a proscribed organised group, that was engaged in a series of hostilities, ranging from suicide bombings at public places to organised attacks on the armed forces of Pakistan, defence installations, and even religious places, and as per the official figures, thousands of civilians and servicemen have lost their lives.

34. The attack on Karachi Airport was not a sole incident committed by some disgruntled persons or entity but in fact it was one of the numerous

attacks carried out by this organised armed group and its peripheries, in a planned manner, in which, commercial aircrafts and other facilities were damaged at the Karachi Airport. The vicious cycle of violence has been spread over many years, reaching its peak of escalation and intensity, particularly, after the traumatic incident which took place at Army Public School in Peshawar City in which innocent teachers and students lost their lives, and under a constitutional amendment, military courts had to be established. Tangible evidence exists that at the relevant time these armed groups were also supported by foreign governments with the defined object to create fear amongst public at large, paralyse the administration, and pose an existential threat to the State.

35. It is an undeniable fact that the situation that was prevalent in the Country when the Karachi Airport was attacked, if looked at in a holistic perspective, would constitute part of a large-scale violence perpetrated against the State of Pakistan by proscribed organisations, and it would not constitute isolated terrorist activities but rather a non-international armed conflict (*NIAC*), or at least it may be categorised as a hybrid phenomena; where repeated acts of terrorism in furtherance of defined objectives translated into a non-international armed conflict.

36. The undisputed facts of all these suits / *lis* have to be assessed in the afore-mentioned criteria. Fact of the matter is that one of the proscribed organisations as mentioned in the list [placed on record by the learned counsel for the Defendants] of NACTA (National Counter Terrorism Authority, Government of Pakistan), claimed responsibility of the attack at the Karachi Airport. Undisputedly, gun battle between the armed group

and law enforcement agencies lasted for hours. Severe damage was done to Aircrafts and other facilities at the Airport including warehouses of Defendants, where the consignments / cargos of different entities / persons, including those who were clients of Plaintiffs, were destroyed.

37. Honourable Supreme Court in the above *Military Courts Case* has exhaustively discussed the situation Pakistan was facing at the relevant time. The majority view of the Honourable Supreme Court has vividly mentioned that Country was in a state of war with terrorists militias, in which around fifty thousand Pakistanis lost their lives in terrorist attacks conducted in different parts of Pakistan including the civilian Airports, stretching over a period of more than a decade. Although, learned counsel for the Plaintiffs has attempted to distinguish this reported case of Military Courts by arguing that this judgment was handed down by the Honourable Supreme Court on completely different issues, concerning 21st Amendment in the Constitution of the Islamic Republic of Pakistan, 1973 and statutory amendment incorporated in Pakistan Army Act, 1952, and it has nothing to do with the above act of terrorism done at the Karachi Airport, which is the subject issue of the present Suits. I am afraid, submissions on behalf of the Plaintiffs, do not have much force, because findings of the Honourable Supreme Court in the above Military Courts case were based on the material and record produced before it by the Federal Government, so also mentioned in the Judgment itself. The relevant observations of the Apex Court, which have direct nexus with the present controversy at hand is as follows_

143. In the above circumstances, it is required to be determined whether the gravity of the current situation and the intensity of the armed conflict, warrants its

description as a "threat of war" permitting trial of civilians by Court Martial. In this behalf, the learned Attorney General for Pakistan made available Factual Data and on the basis thereof contended that since 2002 more than sixteen thousand incidents of terrorists attacks have occurred which include attacks on the most sensitive of defence installations, including the GHQ, Rawalpindi and Air Bases at Kamra in the vicinity of Islamabad and at Karachi. Civilians Airports have also been attacked. Mosques, *Imambargahs*, Churches and other places of worship have been subject to attacks and bomb blasts. Public transport have been ambushed and after identifying the passengers on the basis of sect or religion killed in cold blood. So much so schools have not been spared and small children massacred. At various points of time, control of State on the territories have been periodically lost., as in the case of Swat and prior to the commencement of the military operation launched about one year ago, parts of North Waziristan, Khyber and other Tribal Agencies, which were in the total control of the armed enemies of the State where the flag of Pakistan no longer flew nor its Institution functioned. Since the year 2002, more than 56,000 Pakistan's have been killed or wounded, including both civilians and Members of the Law Enforcement Agencies. It was further contended, that the nerve center of the armed enemies of Pakistan may be located in the territory held by them but their tentacles are spread all over Pakistan in the garb of abettors and facilitators where attacks are launched and from where funding is received. It was further contended that the persons involved in the armed conflict against the State not only include foreigners but there are also indications of foreign funding and instigation. To counter the situation, large scale military operations were required to be undertaken and are being currently conducted involving not only the Pakistan Army but also the Pakistan Air Force. The learned Attorney General also maintained that the armed persons waging war against Pakistan are well organized and well trained with declared foreign affiliations and the coordination and intensity of their aggression has created a situation, the gravity whereof cannot be squeezed into the narrow confines of a state of affairs where mere acting —in aid of civil power! by the Armed Forces would suffice. It is in the above backdrop, in order to deal with the current situation, an additional tool to counter the situation has been provided by way of the questioned Amendments in the Constitution and the Pakistan Army Act. (at pages-726 to 727)

144. The contentions raised by the learned Attorney General for Pakistan appear to be quite compelling. Some of the facts brought to the notice of this Court are already in the public domain (at page-727)

145. Thus, the offences committed by said terrorists appear to have direct nexus with the Defence of Pakistan. (at page-728)

19. The treatment of belligerent citizen and unlawful combatants in custody who have waged war against the State is not just a matter of municipal law. The subject also attracts the principles of public international law on armed conflict and war. (at pages-1144 to 1145)

21. In the facts of the present case, the persons engaged in waging war against Pakistan through armed conflict, insurrection, terrorism and militancy do not belong to the Armed Forces of any State. Although the combatants are member of terrorist groups or militia yet these groups lack the abovenoted four elements that qualify such groups for protection as prisoners of war. Consequently, the terrorist militants fighting against Pakistan and captured by the Armed Forces of Pakistan may be considered for protection under the 4th Geneva Convention dealing with civilians in the captivity of a party to the conflict of which they are not nationals. Article 3 of the said Convention enumerates the essential human rights restraints imposed in this respect on a detaining power. These include nondiscriminatory treatment of civilians without distinction founded on race, colour, religion or faith, gender or other similar criteria. In this respect a prohibition is imposed against violence to the life and person of the captive civilians in particular murder of all kinds, mutilation, cruel treatment and torture, taking of hostages, outrages upon personal dignity in particular humiliating and degrading treatment." Finally and more importantly, —passing of sentences and carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples." (at page-1146)

22. Before dealing with the mode and manner of trial of civilians who are in the custody of a detaining State, it is important to highlight those civilian persons that are excluded from the human rights dispensation accorded by the 4th Geneva Convention. Such persons are listed in Article 5 of the said Convention which provides that:

“Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute

military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be."

(emphasis provided)

(at pages-1146 to 1147)

32. In the light of the aforementioned international human rights law and judicial opinion based thereon the nature of armed conflict in which terrorist militant combatants are engaged in waging war against Pakistan with the Armed Forces and the law enforcement agencies of Pakistan, it is crystal clear that such combatants have nexus with the defence of Pakistan and are fit subjects for inclusion within the ambit of the PAA for the purpose of their detention, trial or punishment in accordance with the laws of Pakistan by Courts Martial constituted under the PAA. *(at page-1153)*

[Underlined for emphasis]

38. The above conclusions drawn by the Honourable Supreme Court in the afore-referred Military Courts case, represent and describe a situation at the relevant time, which includes the attack at Karachi Airport (subject matter of the present cases). Although, it was a terrorist attack at the Karachi Airport, but by no stretch of imagination, it can be termed as an isolated incident of terrorism (as per submissions of Plaintiffs' side), but that very act of terrorism at the Karachi Airport was a part of the protracted and intensified non-international armed conflict between different proscribed organisations and the State of Pakistan, also involving our armed forces. Thus, in my considered view, the term 'war or armed conflict' used in above provision of CAR, viz. Rule 18(2)(c) of the Fourth Schedule, **includes** non-international armed conflict (*NIAC*).

39. Summation of the above discussion is that the protection given to carriers, that is, the present Defendants, in Rule 18(2)(c) of CAR (*supra*) is applicable to the undisputed facts of present suits. The term War and Armed Conflict as contained in the above Rule includes Non-International Armed Conflict. Different facilities at the Karachi Airport, including warehouses of Defendants were destroyed as a result of intense fighting between terrorists and law enforcement officials, which was a result of non-international armed conflict; thus Defendants are not liable to pay any amount or compensation, as claimed in titled suits, to Plaintiffs-Insurance Companies. The benefit of above Rule 18(2)(c) relating to the exclusion of liability is extendable even in non-international armed conflicts (NIAC).

The present suits are adversely affected by the above Rule 18(2)(c) of CAR and accordingly Civil Miscellaneous Application Numbers 13104, 13105 and 13106 of 2018 are allowed and plaints of Suits No.1837, 1840 and 1854 of 2016, are rejected. At the same time, in those suits where such applications under Order VII, Rule 11 of CPC have not been filed, plaints of those suits should also meet the same fate, because in terms of Order VII, Rule 11 of CPC, power to reject plaint on the ground mentioned therein, is also exercisable *suo moto* by the Courts. Accordingly, plaints of Suits No.1836, 1838, 1839, 1842, 1844 to 1853 and 1855 of 2016, are also rejected.

40. Consequently, since issue the with regard to 18(2)(c) of CAR has been decided in the affirmative, no discussion is required to be done on

Rule 35 of CAR, concerning limitation period for bringing claims of the nature.

41. Office is directed to draw up the respective decrees.

JUDGE

Karachi.

Dated: 06.05.2020.