

TYPE OF APPEAL

**UNDER THE CPC
1908**



Prepared By:
Adv Usha Vats & Adv Manoj Parashar

Here's a **complete explanation of “Types of Appeals under the Code of Civil Procedure, 1908 (CPC)”**, including sections, meaning, purpose, and landmark points 📌

Types of Appeals under the Code of Civil Procedure, 1908

Meaning of Appeal

An **appeal** is a legal remedy by which a person dissatisfied with a court's decision seeks a review and reversal/modification by a **superior court**.

It is not a new trial, but a continuation of the original proceedings.

Statutory Basis

Appeals under CPC are governed by **Sections 96–112** and **Orders 41–45**.

Types of Appeals under CPC

Type of Appeal	Relevant Section / Order	Filed Against	Before Which Court	Key Points
1. First Appeal	Section 96 – 99; Order 41	Decree passed by a court	Before the District Court or High Court	- Lies on a question of law and

Type of Appeal	Relevant Section / Order	Filed Against	Before Which Court	Key Points
		exercising original jurisdiction	(depending on value/jurisdiction)	fact. - Must be filed within 90 days from decree.
2. Second Appeal	Section 100 – 103	Decree passed in appeal by a Subordinate Court	Before the High Court	- Lies only on a substantial question of law . - High Court must formulate the question of law before hearing.
3. Appeal from Orders	Section 104 – 106; Order 43 Rule 1	Certain appealable orders (not decrees)	Before Appellate Court as provided	- Only specified orders are appealable (like injunction, appointment)

Type of Appeal	Relevant Section / Order	Filed Against	Before Which Court	Key Points
				t of receiver, etc.). - No appeal from all interlocutory orders.
4. Appeal from Original Decrees of Small Cause Courts	Section 96(4)	Decrees passed by Courts of Small Causes	No Appeal (barred except on a question of law in some cases)	- Prevents trivial appeals.
5. Appeal by Indigent Person (Pauper Appeal)	Order 44	Refusal to allow appeal as pauper	Before Appellate Court	- Person can appeal without paying court fees if indigent.
6. Appeal to the	Section 109–112; Articles	Judgments, decrees, or	Before Supreme Court of India	- Lies on substantial question of

Type of Appeal	Relevant Section / Order	Filed Against	Before Which Court	Key Points
Supreme Court	132–136 of Constitution	orders of High Court		law of general importance or with certificate of fitness from High Court.
7. Letters Patent Appeal (LPA)	Under Letters Patent of High Courts (not CPC but related)	Judgment of a Single Judge of High Court	Before Division Bench of same High Court	- Applicable only in Chartered High Courts (e.g., Bombay, Calcutta, Madras, Delhi). - Subject to statutory bar (e.g., in writs under Art. 226/227 sometimes excluded).

Key Features of an Appeal

- It is a **statutory right** — not inherent.
 - It must be filed **within limitation** (Sections 12, 5 Limitation Act).
 - **No appeal** from consent decrees (Section 96(3) CPC).
 - **Right of appeal** exists on the date suit is instituted.
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Distinction Between First and Second Appeal

Basis	First Appeal (Sec. 96)	Second Appeal (Sec. 100)
Scope	Both law & facts	Only substantial question of law
Forum	District Court / High Court	High Court only
Objective	Re-examination of evidence	Clarification of legal principles

Landmark Judgments

Case Name	Principle
Ramesh Singh v. Cinta Devi (1996) 3 SCC 142	Right of appeal is a substantive right — accrues on date of suit.

Case Name	Principle
Kondiba Dagadu Kadam v. Savitribai Sopan Gujar (1999) 3 SCC 722	Second appeal lies only on substantial question of law.
N. Suriyakala v. A. Mohandoss (2007) 9 SCC 196	Appellate court cannot reappreciate facts in second appeal.

Objective of Appeal

- To **ensure justice** by correcting errors of law or fact.
- To provide **supervisory control** over subordinate courts.
- To maintain **uniformity of law** and proper judicial discipline.

Summary Table

Appeal Type	Provision	Ground	Filed Before
First Appeal	Sec. 96	Question of fact & law	District / High Court
Second Appeal	Sec. 100	Substantial question of law	High Court
Appeal from Orders	Sec. 104, O.43	Specified orders	Appellate Court
SC Appeal	Sec. 109–112	Substantial question of law	Supreme Court

Appeal Type	Provision	Ground	Filed Before
LPA	Letters Patent	Single Judge decision	Division Bench HC



Types of Appeals under the Code of Civil Procedure, 1908



Appeal Type	Relevant Provisions	Filed Against	Before Which Court
1 First Appeal	Section 96	Decree of a court exercising original jurisdiction	- Lies on question of law and fact - Within 90 days from decree



2 Second Appeal	Relevant Provisions	Filed Against	Before Which Court
2 Second Appeal	Section 100	Decree passed in first appeal	Lies only on substantial question of law



3 Appeal from Orders	Relevant Provisions	Filed Against	Appellate Court
4 Appeal to the Supreme Court	Sections 109-112	Appellate Court	Only specified orders are appealable



5 Letters Patent Appeal	Under Letters Patent	Division Bench of	Division Bench of same High Court
5 Under Letters Patent of High Courts	Judgment of a Single Judge of High Court	Division Bench of same High Court	- Only in Chartered High Courts - Subject to statutory bar