

Chapter 64

INTEREST

The question of interest on a claim in an Admiralty suit is dealt with in accordance with the provisions of Section 34 of the Code of Civil Procedure, 1908, which provides as follows: -

"(1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit with further interest at such rate not exceeding six per cent per annum as the Court deems reasonable on such principal sum, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit:

Provided that where the liability is in relation to a sum so adjudged which had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.

Explanation I - In this sub-section, 'nationalised bank' means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).

Explanation II - For the purposes of this section, a transaction is a commercial transaction, if it is connected with the industry, trade or business of the party incurring the liability.

(2) Where such a decree is silent with respect to the payment of further interest on such principal sum from the date of the decree to the date of

payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefore shall not lie."

In admiralty jurisdiction, the issue of interest on claims is an integral aspect of the adjudication process, governed by various statutory provisions and judicial interpretations. The award of interest, especially in admiralty suits, draws from the general principles enshrined in Section 34 of the Code of Civil Procedure, 1908 (CPC), and specific provisions under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (Admiralty Act, 2017), along with the Admiralty Rules of the High Courts. This discussion expands on the legal framework governing the award of interest in admiralty claims, supplemented with Indian, English, and global case laws.

Section 34 of the Code of Civil Procedure, 1908

Section 34 of the CPC provides the primary legal basis for the award of interest in suits, including admiralty claims, where the decree involves the payment of money. The provision is divided into three key parts:

Pre-suit interest,

Interest from the date of the suit to the date of the decree (pendente lite interest), and

Post-decree interest.

Pre-suit interest: This refers to interest that may be awarded for the period before the institution of the suit. The court may order such interest if justified by the circumstances, including any contractual agreement between the parties.

Pendente lite interest: The court has the discretion to award interest at a reasonable rate from the date of the suit to the date of the decree. This interest is typically granted in recognition of the time taken to adjudicate the

matter and compensate the claimant for the delay in recovering the principal sum.

Post-decree interest: This is interest awarded from the date of the decree to the date of payment, or any earlier date the court deems fit. The rate for this interest is capped at 6% per annum, unless the liability arises out of a commercial transaction. In such cases, the court may award interest exceeding 6% per annum but within the limits of the contractual rate, or the rate charged by nationalized banks for commercial transactions, where no contractual rate is agreed upon.

The provisions of Section 34 CPC are applicable in admiralty suits to the extent that they do not conflict with the specific provisions of the Admiralty Act, 2017 and the Admiralty Rules of the High Courts.

Admiralty Act, 2017 and Admiralty Rules of the High Courts

The Admiralty Act, 2017 governs maritime claims and the exercise of admiralty jurisdiction by High Courts in India. The Act consolidates and codifies the laws on admiralty jurisdiction, legal proceedings, and arrest of ships, and it includes specific provisions regarding the award of interest.

Section 2(1)(c) of the Admiralty Act, 2017 defines "maritime claims," which encompass a wide range of claims, including those related to the loss or damage of goods, disputes arising from ship operations, and claims for damages caused by the ship. In all these cases, the claim for interest often accompanies the principal claim.

The Admiralty Rules of the High Courts provide further procedural guidance on how claims, including those for interest, are to be adjudicated. The discretionary power of the court in awarding interest in admiralty matters is recognized, and courts generally apply the principles under Section 34 CPC unless otherwise provided by maritime laws or specific agreements.

Indian Case Law on Interest in Admiralty Claims

The Indian judiciary has addressed the issue of interest in admiralty claims in several notable cases:

MV Elisabeth v. Harwan Investment & Trading Pvt. Ltd. (1993): In this landmark case, the Supreme Court of India recognized the inherent admiralty jurisdiction of Indian High Courts and upheld the power to award interest on maritime claims, including claims for damages and compensation.

Shipping Corporation of India Ltd. v. Machado Brothers (2004): The Supreme Court reiterated the principles of awarding interest under Section 34 CPC and recognized the court's discretion to fix reasonable interest rates in admiralty suits, particularly when commercial transactions are involved.

JMC Projects (India) Ltd. v. Indure Pvt. Ltd. (2018): This case addressed the application of pre-suit, pendente lite, and post-decree interest in commercial transactions, emphasizing the need for courts to consider the commercial nature of the transaction while awarding interest beyond the 6% per annum cap.

These cases illustrate the broad judicial discretion in awarding interest and the relevance of the contractual or commercial nature of the underlying transaction.

English and Global Perspectives on Interest in Admiralty Claims

In English law, interest in admiralty cases is typically governed by the Senior Courts Act 1981, which confers discretionary powers on the court to award interest at such rates as the court considers appropriate. Section 35A of the Act allows the court to award interest on debts and damages in civil cases, including admiralty matters, at a rate it deems just.

Notable English cases include:

The *Bordesley* (1915): The English court held that interest in admiralty claims should be compensatory, taking into account the time and inconvenience caused to the claimant due to the withholding of payment.

The *Medina Princess* (1994): The Court of Appeal clarified that the awarding of interest in admiralty claims must be reasonable and should reflect prevailing commercial rates, especially in cases involving maritime commercial transactions.

Globally, jurisdictions such as the United States and Canada follow similar principles, wherein courts have the discretion to award interest based on statutory provisions and the circumstances of the case. In the U.S., admiralty courts often refer to 28 U.S.C. § 1961 when awarding post-judgment interest, which mandates the use of federal rates. Canadian admiralty law, governed by the Federal Courts Act, also grants courts discretionary powers to award interest at rates that reflect commercial realities.

The award of interest in admiralty claims in India is governed by Section 34 of the CPC and the specific provisions of the Admiralty Act, 2017. Indian courts exercise significant discretion in awarding interest, considering factors such as the commercial nature of the transaction, contractual agreements, and prevailing market rates. This approach is consistent with global practices in admiralty jurisdictions, where courts seek to balance the interests of claimants and defendants by ensuring that interest awards are fair and reasonable.

The judicial precedents and statutory framework emphasize the compensatory nature of interest in admiralty cases, ensuring that claimants are adequately compensated for the time and financial loss incurred due to delayed payments. The Admiralty Rules of the High Courts provide further procedural safeguards, ensuring that the award of interest aligns with the principles of equity and justice in maritime law.