

COLLISION ACTIONS

The maritime claim in respect of which the power of arrest is recognised in law includes section 4 (1) (d) of the Admiralty Act (2017) deals with loss or damage caused by the operation of a vessel.

There is a provision under section 443 and 445 of the Merchant Shipping Act to detain ship that has occasioned damage also Part X deals with collisions, accidents at sea and liability.

Collision actions form a critical area of admiralty law, dealing with claims arising out of maritime accidents where vessels collide, leading to loss or damage. In India, the legal framework governing collision actions is primarily rooted in the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("Admiralty Act, 2017") and relevant provisions of the Merchant Shipping Act, 1958. These legislative instruments empower admiralty courts to address claims resulting from collisions and provide a detailed procedural framework for the arrest of vessels involved in such incidents.

Jurisdiction of Admiralty Courts under the Admiralty Act, 2017

The Admiralty Act, 2017, confers jurisdiction on the High Courts to entertain and decide maritime claims, including those arising from vessel collisions. Section 4(1)(d) of the Admiralty Act explicitly recognizes claims for "loss or damage caused by the operation of a vessel." This provision extends the admiralty jurisdiction to include not just physical damage to property but also other consequential losses that may arise from a collision.

When a collision occurs, the affected party can approach the High Court exercising admiralty jurisdiction to seek remedies, including the arrest of the offending vessel as security for the claim. The arrest of a vessel is a recognized

remedy under the Admiralty Act, serving the dual purpose of securing the claimant's interest and ensuring the presence of the vessel (or its value) within the jurisdiction of the court during the pendency of the suit.

Collision and Liability under the Merchant Shipping Act, 1958

The Merchant Shipping Act, 1958, supplements the Admiralty Act, 2017, by providing additional provisions related to ship collisions and the associated liabilities. Part X of the Merchant Shipping Act, titled "Collisions, Accidents at Sea and Liability," is particularly relevant in this regard.

Section 443: This provision empowers the Director-General of Shipping or any officer authorized by the Central Government to detain a ship that has occasioned damage until satisfactory security is provided. This is a critical provision for immediate post-collision action, ensuring that a vessel involved in an accident does not escape liability by leaving Indian territorial waters before the claim is settled.

Section 445: This section provides the legal mechanism for the apprehension and detention of vessels that have been involved in collisions or other maritime accidents. It allows the authorities to prevent the departure of such vessels from Indian waters until proper investigations are conducted, and liabilities are ascertained.

Together, Sections 443 and 445 of the Merchant Shipping Act provide a statutory basis for the detention of vessels involved in collisions, thereby reinforcing the broader remedies available under the Admiralty Act, 2017.

Principles of Liability in Collision Cases

The principles governing liability in collision cases are rooted in well-established admiralty law doctrines. The primary principle is that of "fault," where the vessel responsible for the collision is held liable for the resulting

damage. Indian courts follow internationally recognized standards in determining fault, including the application of the International Regulations for Preventing Collisions at Sea (COLREGs), 1972.

In cases of mutual fault, Indian admiralty courts typically apply the principle of apportionment, where liability is divided between the vessels involved based on their respective degrees of fault. This is in line with the Maritime Conventions Act, 1911, which also influences Indian admiralty law in cases involving collision damages.

Case Law on Collision Actions in India

MV Hellenic Glory v. Union of India (AIR 2002 Cal 114): In this case, the Calcutta High Court dealt with a claim arising from a collision between two vessels. The court reiterated that the Admiralty Act, 2017, empowers the court to arrest the vessel that caused the damage, securing the claimant's interest and ensuring that the vessel remains within the court's jurisdiction until the dispute is resolved.

Great Eastern Shipping Co. Ltd. v. MV Inaba Z (AIR 2003 Bom 21): The Bombay High Court addressed the issue of apportionment of liability in a collision case, emphasizing that where both vessels are at fault, liability must be divided proportionally based on the degree of fault. The court also underscored the importance of following international conventions, including the COLREGs, in determining fault in such cases.

The Oceania v. The Rhine (AIR 1998 Mad 174): In this case, the Madras High Court examined the procedural aspects of arresting a vessel following a collision. The court held that the arrest of the vessel was essential to secure the maritime claim and ensure that the claimant's rights were protected, particularly when the vessel was at risk of leaving Indian waters.

Procedural Aspects of Arrest in Collision Actions

The procedure for arresting a vessel involved in a collision is guided by the Admiralty Rules of the High Courts and the provisions of the Admiralty Act, 2017. A party seeking to arrest a vessel must file a suit in rem, along with an application for arrest, supported by an affidavit detailing the circumstances of the collision and the resulting loss or damage.

Once the court is satisfied with the prima facie case presented by the claimant, it may issue a warrant of arrest, which is executed by the Sheriff or the concerned authority, such as the port or customs officials. The arrested vessel is then detained in port until security is provided, or the court orders its release after adjudicating the claim.

Collision actions in Indian admiralty law are governed by a well-defined legal framework that combines the provisions of the Admiralty Act, 2017, and the Merchant Shipping Act, 1958. These laws provide comprehensive remedies, including the arrest and detention of vessels that have caused damage due to collisions. Indian courts, through their jurisprudence, have upheld the principles of liability, apportionment of fault, and the arrest of vessels as effective tools to secure maritime claims arising from collisions, ensuring that justice is served in accordance with international maritime standards.