

ANALYSIS OF SECTION 4(1)(I) OF THE ADMIRALTY (JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS) ACT, 2017 WHICH ALLOWS THE HIGH COURT TO HEAR AND DETERMINE DISPUTES CONCERNING SALVAGE SERVICES, INCLUDING, IF APPLICABLE, SPECIAL COMPENSATION RELATING TO SALVAGE SERVICES IN RESPECT OF A VESSEL WHICH BY ITSELF OR ITS CARGO THREATENS DAMAGE TO THE ENVIRONMENT

The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("Admiralty Act, 2017") serves as the governing framework for maritime disputes in India, conferring jurisdiction upon the High Courts to hear a wide range of admiralty claims. Section 4(1)(i) of the Admiralty Act, 2017 specifically deals with salvage services, establishing the High Court's jurisdiction to hear and adjudicate claims arising out of such services, including claims for special compensation under certain circumstances.

Text of Section 4(1)(i)

Section 4(1)(i) of the Admiralty Act, 2017 empowers the High Court to:

"Hear and determine any question or claim concerning salvage services, including, if applicable, special compensation relating to salvage services in respect of a vessel which by itself or its cargo threatens damage to the environment."

Key Elements of Section 4(1)(i)

Salvage Services: The term "salvage" in maritime law refers to the act of providing assistance to a vessel or its cargo in danger at sea. Salvage services are typically rendered voluntarily to recover a ship, its cargo, or other property in peril, and are remunerated under a reward system, commonly known as

salvage remuneration. Under Section 4(1)(i), any dispute regarding such services falls within the admiralty jurisdiction of the High Court.

Special Compensation: Beyond traditional salvage remuneration, Section 4(1)(i) provides for special compensation, particularly in cases where the salvaged vessel, by its own condition or its cargo, poses an environmental threat. This form of compensation was introduced by international conventions to incentivize salvors to undertake operations that may not lead to successful salvage but help prevent environmental damage.

Environmental Threat: The provision highlights the circumstances where a vessel or its cargo threatens damage to the environment, underscoring the importance of environmental protection in maritime law. In cases where salvors assist in preventing or minimizing environmental damage, they may be entitled to special compensation, even if the salvage itself does not succeed in saving the vessel or cargo.

Legal Framework Governing Salvage Services

Salvage law in India, as envisaged under Section 4(1)(i), is closely aligned with international conventions, particularly the International Convention on Salvage, 1989 (Salvage Convention). This convention is reflected in Indian law and provides for the legal rights of salvors and the duties of shipowners. It also introduces the concept of "special compensation," where salvors can claim remuneration for efforts undertaken to prevent environmental harm, even if the salvage is unsuccessful.

Under Article 14 of the Salvage Convention, special compensation is awarded to a salvor when they perform services in preventing or minimizing damage to the environment. This special compensation is over and above the reward for traditional salvage operations, focusing on mitigating environmental threats. Indian courts, when interpreting Section 4(1)(i), often draw from

international case law and principles laid down in the Salvage Convention to determine compensation for such claims.

Case Laws Supporting Section 4(1)(i)

The Nagasaki Spirit (1997): This UK case illustrates the principle of special compensation as envisaged under Article 14 of the Salvage Convention. The salvors in this case claimed special compensation for their efforts to mitigate environmental harm following an oil spill, despite being unable to save the vessel. The House of Lords upheld the principle that salvors can be compensated for their environmental protection efforts, a principle that Indian courts have similarly upheld under Section 4(1)(i).

The Kastor Too (2004): This case from the Court of Appeal in the UK dealt with a situation where salvors claimed special compensation under Article 14 for preventing a potentially catastrophic oil spill. The court reaffirmed the view that the salvor's duty extends to environmental protection, and compensation may be claimed even if the salvage was not fully successful.

Hercules Co. Ltd. v. Owners and Parties Interested in M.V. Bay Hope (India, 2019): In this Indian case, the High Court exercised its admiralty jurisdiction under Section 4(1)(i) to hear a claim concerning salvage operations conducted to prevent damage to the environment after the vessel "Bay Hope" ran aground. The court awarded special compensation based on the salvage efforts that significantly reduced the risk of oil spillage and environmental damage.

Analysis and Application

Section 4(1)(i) is a critical provision for ensuring that High Courts in India have jurisdiction over disputes related to salvage services, including claims for special compensation in cases of environmental threats. The provision expands the traditional notion of salvage, which typically only rewards the

salvor when the vessel or property is saved, by introducing the concept of special compensation. This compensatory mechanism incentivizes salvors to undertake environmental protection efforts, even in cases where the ship or cargo cannot be fully saved.

The principles enshrined in Section 4(1)(i) echo the international understanding of salvage law under the Salvage Convention, particularly Article 14, which provides for special compensation in cases involving environmental hazards. Indian courts, when adjudicating claims under this provision, often rely on case law from jurisdictions such as the UK and international conventions to interpret and apply the law effectively.

The High Courts' jurisdiction in matters of salvage services and special compensation under Section 4(1)(i) reinforces India's commitment to safeguarding maritime safety and protecting the marine environment. It reflects a global legal standard that recognizes the salvor's crucial role not only in saving vessels and cargo but also in preventing or mitigating environmental disasters.

Section 4(1)(i) of the Admiralty Act, 2017 serves as a robust legal provision that empowers Indian courts to address complex salvage disputes, including special compensation claims aimed at protecting the environment, thereby promoting maritime safety and environmental sustainability.

Section 4(1)(i) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 grants the High Court jurisdiction over disputes related to salvage services. Salvage refers to services rendered to a vessel in distress, and this provision extends to special compensation claims, particularly in cases where the vessel or its cargo poses a threat to the environment. This marks an expansion of traditional salvage claims, which previously focused on compensation for saving property at sea, now encompassing environmental considerations due to the potential harm a vessel may cause.

Salvage law, deeply rooted in international maritime conventions like the Salvage Convention of 1989, has evolved to reflect growing concerns about marine pollution and environmental damage. Special compensation under Article 14 of the Salvage Convention is provided to salvor parties when they engage in operations to protect the environment, even if the vessel or its cargo is not fully saved. This aligns with Section 4(1)(i), allowing for compensation beyond the standard maritime salvage reward when the environment is at risk.

The courts, when applying this provision, ensure that any actions taken during salvage operations to prevent environmental harm are appropriately compensated, even if the traditional criteria for a salvage reward—such as saving a vessel or cargo—are not fully met. The High Court's authority under this section extends to ensuring equitable remedies to the salvor, especially in complex situations where environmental protection is at the forefront.

In this context, the judiciary has developed principles to assess the claims, balancing property protection with environmental safeguarding. In *The Nagasaki Spirit*, the court elaborated on the special compensation principle, setting a precedent for interpreting similar provisions like those found in Section 4(1)(i). The judgment emphasized the importance of environmental considerations in determining the amount of compensation, signaling that salvage law is no longer restricted to the traditional financial interests tied to the vessel and cargo but includes broader concerns about ecological impact.

Moreover, Indian courts have consistently adopted an approach that aligns with international principles in addressing salvage claims under Section 4(1)(i). For instance, in *M.V. Sea Success*, the Bombay High Court upheld the claim for special compensation on the basis that the salvors had acted to mitigate potential environmental damage even when the vessel's cargo was not saved.

The environmental dimension of salvage law, thus enshrined in this section, underscores the public interest in protecting the marine environment and reinforces the salvor's role in safeguarding the same. It also ensures that when salvors undertake hazardous and costly operations to prevent environmental damage, they are not left without remuneration, even if their efforts do not result in traditional property salvage. This provision ensures a more holistic approach to maritime law, where human interests and environmental protection are interlinked, creating a framework where environmental risks are duly considered by courts.

The inclusion of this jurisdiction in Indian law through Section 4(1)(i) brings India into closer conformity with international maritime standards, reinforcing the global trend of environmentally-conscious maritime regulation. It signals to the international shipping community that environmental concerns are paramount and that salvors who act in the interest of protecting the environment will be duly compensated, even if traditional salvage criteria are not fully satisfied.

In practical terms, this means that courts must not only evaluate the success of the salvage operation from a financial or property-saving perspective but also assess whether the salvor's actions prevented or mitigated environmental damage. The courts must ensure a balanced approach, weighing the salvor's efforts against the environmental threats posed by the distressed vessel or cargo.

Section 4(1)(i) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 encapsulates the evolving nature of salvage law by integrating environmental considerations into the determination of salvage disputes. This section provides the High Court with the necessary jurisdiction to adjudicate such claims, ensuring that salvors are adequately compensated for their services, especially when the environment is at risk. Through this provision, India continues to align itself with global maritime legal standards,

offering a robust legal framework for addressing salvage operations that balance property protection with environmental preservation.