

**ANALYSIS OF SECTION 4(1)(P) OF THE ADMIRALTY
(JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS)
ACT, 2017 WHICH ALLOWS THE HIGH COURT TO HEAR
AND DETERMINE DISPUTES CONCERNING
DISBURSEMENTS INCURRED ON BEHALF OF THE VESSEL
OR ITS OWNERS**

Section 4(1)(p) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, is a crucial provision that extends the jurisdiction of the High Court to hear and determine disputes relating to disbursements made on behalf of a vessel or its owners. This section confers upon the High Court the authority to adjudicate claims arising from payments or expenses incurred for the operation, maintenance, or provisioning of a vessel, whether in the ordinary course of business or under special circumstances. The term "disbursements" in this context refers to expenses that are necessary for the functioning and management of the vessel, and typically involve third-party payments made by agents, brokers, or others on behalf of the vessel's owner, charterer, or operator.

Historically, maritime law has recognized the need to protect those who provide necessary services to vessels, as maritime operations often involve multiple stakeholders, including owners, charterers, and third parties such as suppliers and agents. In many cases, third parties are required to make disbursements on behalf of vessels in foreign ports or in exigent situations where immediate payments are required for the ship's continued operation. The provision for recovery of such disbursements ensures that those who advance funds or provide services to the vessel are afforded legal recourse to secure reimbursement.

Under Section 4(1)(p), the High Court, sitting in admiralty jurisdiction, may hear claims for disbursements incurred on behalf of the vessel or its owners. Such claims are treated as maritime claims under Indian law, and the claimant,

who could be an agent, supplier, or broker, can initiate proceedings against the vessel itself (an action in rem) or against the owner (an action in personam). An action in rem allows the claimant to arrest the vessel, providing security for the claim, while an action in personam allows the claimant to seek recovery directly from the vessel's owner.

The recognition of disbursement claims under this section is aligned with international maritime practices. Maritime law has traditionally upheld the right of parties to recover costs and expenses incurred on behalf of vessels, recognizing that maritime commerce often necessitates the involvement of multiple actors, including those who supply the vessel with provisions, fuel, and services essential for its operation. The rationale behind this provision is to ensure that those who provide such services or make payments on behalf of the vessel are not left uncompensated, particularly when the vessel is operating far from its home port or in foreign waters, where the vessel owner may not be readily available to make payments.

Indian courts have recognized that disbursements incurred on behalf of the vessel fall within the category of maritime claims, and as such, are subject to admiralty jurisdiction. This allows for the arrest of vessels in Indian waters to secure such claims, thereby providing an effective remedy for claimants. In the case of *M.V. Fortune Express v. M/s GAC Shipping (India) Private Ltd.*, the Bombay High Court reaffirmed the principle that claims for disbursements made on behalf of a vessel are maritime claims and can be enforced through the arrest of the vessel under admiralty jurisdiction. In this case, the court held that the expenses incurred by the shipping agent for the supply of provisions, fuel, and other services necessary for the vessel's operation could be recovered through an action in rem, and the arrest of the vessel was deemed appropriate to secure the claimant's interests.

The provision also has significant implications for the global nature of maritime commerce, where vessels frequently cross international borders, and

expenses may be incurred in multiple jurisdictions. Section 4(1)(p) ensures that agents and suppliers operating in India have a legal mechanism to recover costs and expenses incurred on behalf of foreign vessels, and the availability of arrest as a remedy provides a strong incentive for vessel owners to settle claims promptly. The Indian Admiralty Act, 2017, thereby aligns with the principles of the 1952 Arrest Convention and the 1999 Arrest Convention, which also recognize claims for disbursements as enforceable maritime claims.

One of the key features of claims under Section 4(1)(p) is that they can be pursued against the vessel itself, even if the disbursements were made by a third party. This is important because maritime law treats the vessel as a juridical person, capable of being sued and held liable for debts incurred in connection with its operation. This legal fiction allows claimants to arrest the vessel to secure their claim, regardless of whether the owner is present within the jurisdiction or has assets that could be attached. The ability to arrest a vessel is a powerful tool in maritime law, as it creates significant pressure on the vessel owner to resolve the claim in order to avoid prolonged detention of the vessel, which can result in substantial financial losses.

Another important aspect of Section 4(1)(p) is that it recognizes claims for disbursements not only by agents and brokers but also by other parties who may incur expenses on behalf of the vessel. This includes suppliers of goods and services, such as fuel, provisions, and spare parts, as well as ship repairers and other service providers. The broad wording of the section ensures that a wide range of claims can be brought under this provision, reflecting the diverse nature of maritime commerce and the many different types of expenses that may be incurred in the operation of a vessel.

However, the claimant must establish that the disbursements were made on behalf of the vessel or its owner and that they were necessary for the vessel's operation. Courts will typically require evidence of the disbursements, such as

invoices, contracts, or receipts, as well as proof that the services or goods were actually supplied to the vessel. In *M.V. Seahorse v. Gulf Petrochem FZE*, the court emphasized the need for claimants to provide clear evidence of the expenses incurred and the services rendered, in order to establish a valid maritime claim for disbursements. The court further noted that disbursements must be reasonable and necessary, and not merely incidental or extraneous to the operation of the vessel.

It is also noteworthy that claims for disbursements incurred on behalf of a vessel may sometimes overlap with other types of maritime claims, such as claims for necessities or for salvage. In such cases, the claimant may choose to pursue the claim under the most appropriate legal basis, depending on the circumstances. For example, if the disbursements relate to emergency repairs carried out to save the vessel from peril, the claimant might also have a valid claim for salvage. In *M.V. Navios Apollon v. Navios Corporation*, the claimant sought recovery of disbursements under both necessities and salvage, and the court held that the claimant was entitled to recover under either head of claim, provided the necessary elements were established.

The inclusion of disbursement claims under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, is also significant from a comparative law perspective. Many other jurisdictions, including the United Kingdom and the United States, recognize similar claims under their admiralty laws. In the United Kingdom, claims for disbursements are recognized under the Senior Courts Act 1981, which governs admiralty jurisdiction. Similarly, in the United States, such claims fall within the scope of maritime liens under the Commercial Instruments and Maritime Liens Act (CIMLA). By aligning with these international standards, the Indian Admiralty Act ensures that claimants can pursue similar remedies in Indian courts as they would in other major maritime jurisdictions.

Furthermore, Section 4(1)(p) ensures that the jurisdiction of the High Court in admiralty matters is comprehensive, encompassing not only traditional maritime claims such as salvage, collision, and cargo disputes but also claims arising from the day-to-day operation of the vessel. This is particularly important in the modern maritime industry, where vessels are often operated by management companies or charterers, and the vessel owner may not be directly involved in the day-to-day decision-making or payment of expenses. By allowing claims for disbursements to be brought against the vessel, the Act provides a practical and effective remedy for those who incur expenses in the course of the vessel's operation.

Finally, Section 4(1)(p) of the Admiralty Act serves an important function in promoting fairness and equity in maritime commerce. By ensuring that those who make disbursements on behalf of vessels can recover their costs, the Act helps to maintain the flow of goods and services necessary for the global shipping industry. At the same time, it provides vessel owners and operators with a clear legal framework for addressing claims for disbursements, ensuring that such claims are resolved in a timely and efficient manner. The provision also acts as a safeguard for those who may otherwise face financial losses as a result of advancing funds or services to vessels without the immediate ability to secure reimbursement. In doing so, the Act strikes a balance between the interests of claimants and vessel owners, while ensuring that maritime commerce is not unduly disrupted by unresolved claims.