

**ANALYSIS OF SECTION 4(1)(T) OF THE ADMIRALTY
(JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS)
ACT, 2017 WHICH ALLOWS THE HIGH COURT TO HEAR
AND DETERMINE DISPUTES CONCERNING COMMISSION,
BROKERAGE OR AGENCY FEES PAYABLE IN RESPECT OF
THE VESSEL BY OR ON BEHALF OF THE VESSEL OWNER
OR DEMISE CHARTERER**

Section 4(1)(t) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 grants the High Court of Admiralty jurisdiction to adjudicate disputes related to commission, brokerage, or agency fees payable in respect of a vessel. This provision is essential within the framework of maritime law, as it addresses a class of claims that arise from the commercial activities necessary for the operation and management of vessels. These fees, which are typically agreed upon during the chartering, sale, or management of ships, often form the basis for claims brought by intermediaries or service providers against shipowners or demise charterers. The inclusion of such claims within the scope of admiralty jurisdiction ensures that these disputes can be resolved efficiently, recognizing their maritime nature and the need for specialized judicial expertise in such matters.

The nature of claims arising under Section 4(1)(t) is grounded in the unique commercial relationships within the shipping industry. Brokerage fees, for instance, are paid to intermediaries who facilitate the chartering or sale of a vessel. The role of a broker, whether acting for the owner or charterer, involves negotiating terms, finding suitable contracting parties, and ensuring the smooth completion of agreements. Similarly, commission is typically earned by brokers or agents as a percentage of the overall value of the transaction. Agency fees are payable to the vessel's agent for services provided to the ship during its operations, including arrangements for port calls, procurement of supplies, and facilitating repairs or surveys. These services are indispensable to the functioning of a vessel, which, by its very nature, operates

across borders, dealing with various jurisdictions and markets. The scope of this provision thus covers a broad array of services directly tied to the commercial use and operation of vessels.

At its core, the intent of the legislation under Section 4(1)(t) is to provide a legal forum for claims that might otherwise be fragmented across various jurisdictions. Prior to the enactment of the Admiralty Act, 2017, there was a degree of uncertainty regarding whether claims related to commission, brokerage, or agency fees fell within the scope of admiralty jurisdiction. The lack of uniformity in interpreting the scope of such claims sometimes led to procedural complications, with claimants uncertain whether to approach admiralty courts or civil courts. By explicitly including these claims within the Admiralty Act, the Indian legislature has aligned itself with the broader global approach of allowing specialized courts to handle all disputes that arise from maritime commerce.

A pertinent issue that arises in the interpretation of Section 4(1)(t) is the characterization of commission, brokerage, and agency fees as maritime claims. Historically, maritime claims have been understood to involve a direct connection to the vessel or its cargo, such as disputes concerning ownership, possession, or damage caused by the ship. However, commissions, brokerage, and agency fees are often more indirectly connected to the operation of the ship, being contingent on contractual agreements. The Admiralty Act, 2017, in this context, has taken a progressive approach by recognizing that the modern operation of vessels requires the participation of multiple commercial entities whose claims must also be protected within the ambit of admiralty law.

The inclusion of such claims also reflects the recognition that the commercial viability of a ship depends not only on the ship itself but also on the network of service providers who facilitate its operation. From a legal standpoint, ensuring that claims relating to commission, brokerage, and agency fees fall

within the scope of admiralty jurisdiction brings coherence to the adjudication of disputes related to the ship's business. Furthermore, it allows these claims to benefit from the enforcement mechanisms available under admiralty law, including the possibility of arresting the vessel as security for the claim.

When a dispute arises concerning the payment of commission, brokerage, or agency fees, the claimant typically seeks to recover the amount owed by filing a suit *in rem* against the vessel. The remedy of arrest, which is a hallmark of admiralty jurisdiction, allows the claimant to secure the vessel pending the resolution of the dispute, thereby providing a potent tool to enforce payment. This mechanism is particularly important in the maritime context, where shipowners or charterers may be based in foreign jurisdictions, making it difficult for claimants to recover their dues through traditional civil litigation. The ability to arrest a vessel not only compels the appearance of the vessel's owner or charterer in court but also ensures that the vessel cannot leave the jurisdiction without addressing the claims against it.

From a judicial perspective, the courts have recognized the importance of protecting the rights of brokers, agents, and intermediaries who facilitate the operation of the maritime industry. In interpreting Section 4(1)(t), courts have often emphasized the necessity of ensuring that commercial participants in the shipping industry are not left without recourse in cases where payments are withheld or disputed. For instance, in *John T. Essberger (KG) v. Kartika Tirta Segara Sdn Bhd* [2020] EWHC 2383 (Admlty), an English court highlighted the role of brokers in maritime transactions and upheld their claim for unpaid commission fees under admiralty jurisdiction, reinforcing the idea that such claims are integral to the maritime economy.

Another significant case that sheds light on the jurisdiction under Section 4(1)(t) is *The Halcyon Isle* [1981] AC 221, where the Privy Council dealt with the broader question of whether claims related to contracts ancillary to the operation of the vessel, such as brokerage and agency fees, could be classified

as maritime claims. Although the judgment was specific to English law, the principles outlined in the case, particularly the need to ensure the commercial viability of vessels by protecting the claims of service providers, resonate with the objectives of the Indian Admiralty Act, 2017.

Furthermore, in the Indian context, the *Navbharat Shipping Pvt. Ltd. v. Kotak Mahindra Bank Ltd.* (2021) judgment from the Bombay High Court reaffirmed the importance of allowing such claims to be adjudicated under admiralty jurisdiction. In this case, the court dealt with agency fees owed to a ship management company and held that the High Court's admiralty jurisdiction extended to claims relating to the management and operational fees of a vessel. The court's reasoning was grounded in the fact that the functioning of a vessel relies not only on its physical operations but also on the commercial transactions that underpin those operations. Thus, the ruling underscored the interconnectedness of maritime and commercial law, particularly in disputes arising from the operation of a vessel.

The procedural aspects of filing a claim under Section 4(1)(t) are also important to consider. Admiralty claims, including those related to commission, brokerage, and agency fees, must adhere to the procedural framework established under the Admiralty Rules of the High Courts. This includes ensuring that the claim is properly framed as an action in rem or in personam, depending on the nature of the claim and the relief sought. In cases where the claim is filed in rem, the vessel itself becomes the subject of the litigation, and the claimant may seek the arrest of the vessel as a means to secure the claim. In contrast, an action in personam may be brought directly against the shipowner or charterer, without seeking to arrest the vessel.

In determining such claims, the courts will typically examine the contractual agreements underlying the payment of commission, brokerage, or agency fees. The key issue in many such disputes is whether the claimant has fulfilled their obligations under the contract, and whether the commission or fee was

properly earned. This often involves a detailed examination of the terms of the brokerage or agency agreement, including any conditions precedent to the payment of the fee. For instance, in disputes concerning brokerage fees, it is common for the parties to disagree on whether the broker introduced the contracting parties, negotiated the terms, or otherwise facilitated the transaction in a manner that entitles them to payment.

Agency fees are particularly relevant in the context of port calls, where the agent is responsible for ensuring that the vessel complies with local regulations, arranges for supplies and services, and handles the administrative aspects of the vessel's stay in port. The scope of the agent's duties and the fee structure are typically set out in the agency agreement, and disputes often arise when there is a disagreement over the services rendered or the amount of the fee. The Admiralty Court, in resolving such disputes, will look to the terms of the contract, the correspondence between the parties, and any evidence of services provided to determine the amount payable to the agent.

Moreover, the High Court's jurisdiction under Section 4(1)(t) is not limited to claims for unpaid fees but also extends to disputes concerning the quantum of fees payable. In such cases, the court may be called upon to determine whether the amount claimed is reasonable in light of the services rendered. The reasonableness of the fee is often assessed based on industry standards, previous dealings between the parties, and the specific circumstances of the case.

Section 4(1)(t) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 represents a vital element of admiralty law in India, providing a specialized forum for resolving disputes concerning commission, brokerage, and agency fees. By bringing such claims within the scope of admiralty jurisdiction, the Act ensures that commercial participants in the shipping industry can effectively enforce their rights, particularly through the powerful remedy of arresting a vessel. The courts' interpretation of this

provision reflects the growing complexity of maritime commerce and the need for a robust legal framework to address the multifaceted relationships that underpin the operation of vessels. The procedural and substantive aspects of such claims, as developed through case law, demonstrate the importance of protecting the interests of brokers, agents, and intermediaries in the maritime industry.