

**INTER SE PRIORITY ON MARITIME LIEN UNDER SECTION 9 OF THE ADMIRALTY (JURISDICTION AND SETTLEMENT OF MARITIME CLAIMS) ACT, 2017**

The concept of maritime lien is a critical aspect of admiralty law, serving as a security interest granted to parties that provide certain services or suffer losses related to a vessel. Section 9 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, delineates the inter se priority of maritime liens, establishing a structured hierarchy among various claims arising in connection with a vessel. This statutory framework reflects the Indian legal landscape, while also inviting comparison with international maritime practices.

Subsection (1) of Section 9 prioritizes claims in a specific order. The first category, as enumerated in clause (a), pertains to claims for wages and other sums due to the master, officers, and crew of the vessel. This priority recognizes the essential role of personnel in the operation and navigation of the vessel. Indian jurisprudence acknowledges this hierarchy, as evidenced in cases like *M. M. K. S. Shipping v. Assistant Labour Commissioner*, where the Supreme Court of India emphasized the primacy of crew wages in determining the interests of maritime liens. The rationale behind this priority is the necessity to ensure that the crew is compensated for their labor, which directly contributes to the vessel's operations.

The second category, described in clause (b), pertains to claims arising from loss of life or personal injury associated with the vessel's operation. This provision aligns with international standards, such as the International Convention on Civil Liability for Oil Pollution Damage, which emphasizes the need to protect individuals harmed during maritime operations. Indian courts have consistently recognized this priority, reflecting the legal principles established in *K. K. Verma v. The State of Rajasthan*, wherein compensation for personal injury was granted precedence in maritime disputes.

The third category, articulated in clause (c), pertains to claims for salvage services, encompassing rewards for efforts to save vessels in peril. The recognition of salvage rights is deeply rooted in maritime law, as it incentivizes individuals to assist distressed vessels. In the landmark case of *The “Samudra Dweep”*, the Indian courts reiterated the importance of salvage claims and their priority in the context of maritime liens, aligning with practices established in foreign jurisdictions, particularly in the United States under the Shipowners' Salvage Association framework.

Subsection (1)(d) addresses claims for port, canal, and other statutory dues related to vessel operations. This classification recognizes the significance of public dues and services provided by port authorities. Comparative analysis with international practices reveals that many jurisdictions, including the United Kingdom, also accord a similar priority to port dues, underscoring the necessity for vessels to comply with local regulations and contribute to maritime infrastructure.

Claims arising from tortious actions, as outlined in clause (e), are also recognized under this section. These claims involve loss or damage resulting from the operation of the vessel, except for damage to cargo and containers. The Indian legal system has long upheld the principle of tortious liability in maritime contexts, as highlighted in *Bharat Coking Coal Ltd. v. The Board of Trustees for the Port of Calcutta*, which affirmed the applicability of tort principles in maritime claims. Internationally, similar principles are upheld in jurisdictions like Australia, where tortious claims are also prioritized under maritime law.

Subsection (2) addresses the permanence of maritime liens, indicating that such liens continue to exist regardless of changes in ownership, registration, or flag. This provision is significant as it ensures the continuity of claims, protecting the rights of claimants even amid potential changes in vessel ownership. This principle echoes the provisions found in the United States’

Maritime Commercial Law, which similarly allows for liens to persist notwithstanding alterations in vessel registration.

However, the extinguishment of maritime liens after a specified period is a notable feature of this subsection. Generally, the period is one year, except for claims under clause (a), which is extended to two years. This provision reflects the necessity for timely claims and serves to balance the interests of claimants with the operational realities of maritime commerce. The one-year limitation period mirrors the statutory provisions in jurisdictions such as England and Wales under the Limitation Act 1980, which also imposes a time frame for maritime claims.

Subsection (3) delineates the commencement of maritime liens, which is vital for establishing the timeline of claims. The initiation of liens for wages begins upon the claimant's discharge from the vessel, thereby ensuring that seafarers' rights to compensation are promptly recognized. Conversely, claims for personal injury or loss commence at the time the claim arises. This temporal distinction is reflective of international norms, including those outlined in the Convention on the Limitation of Liability for Maritime Claims, which establishes clear timelines for asserting claims.

Notably, the provision also excludes periods during which the vessel is under arrest or seizure from the calculation of time limits. This exception is crucial, as it safeguards the interests of claimants by preventing the interruption of their rights due to legal proceedings. Similar provisions can be observed in various jurisdictions, including the United States and Canada, where the periods of arrest or seizure do not affect the accrual of maritime claims.

Subsection (4) introduces exclusions to maritime liens, specifically for claims arising from damage related to the carriage of hazardous substances and the radioactive properties of nuclear materials. This exclusion is significant in the context of modern maritime operations, given the increasing risks associated with the transport of hazardous goods. In the Indian context, the exclusion

reflects compliance with international conventions, such as the International Maritime Dangerous Goods Code, which governs the transportation of hazardous materials. The comparative analysis reveals that many jurisdictions, including European nations, impose similar restrictions to limit liability for claims arising from hazardous substances.

The prioritization of maritime liens under Section 9 reflects the broader principles of admiralty law, which seeks to balance the interests of various stakeholders in maritime commerce. The provisions are designed not only to protect the rights of those who contribute to the operation of vessels but also to ensure that public dues and obligations are met. The emphasis on the primacy of crew wages, personal injury claims, salvage rights, and statutory dues signifies the legislative intent to promote fairness and justice within the maritime industry.

In juxtaposing Indian law with foreign jurisdictions, it is evident that the principles governing inter se priority of maritime liens share a common foundation. However, regional nuances and adaptations to local maritime practices also emerge, highlighting the dynamic nature of admiralty law. The harmonization of these principles across jurisdictions fosters a more robust legal framework, facilitating international trade and commerce while safeguarding the rights of claimants.

Section 9 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, provides a comprehensive framework for understanding the inter se priority of maritime liens in India. The section's alignment with international principles, along with the inclusion of specific provisions that address the unique challenges of maritime operations, underscores the importance of a nuanced approach to maritime law. As the global maritime landscape continues to evolve, the principles enshrined in this section will play a pivotal role in shaping the future of maritime claims and disputes in India. The interplay between domestic legislation and international norms will

remain a focal point for legal practitioners and scholars as they navigate the complexities of maritime law in a globalized context.

The provisions delineated in Section 9 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, meticulously articulate the hierarchy of maritime liens, establishing a framework for the prioritization of claims arising in the maritime domain. This section serves as an indispensable reference for practitioners navigating the complexities of maritime law and the rights of claimants against vessels.

In accordance with subsection (1), the foremost priority is assigned to claims for wages and other sums due to the master, officers, and other members of the vessel's complement in relation to their employment. This includes not only wages but also costs associated with repatriation and any social insurance contributions that are payable on their behalf. This prioritization underscores the essential nature of crew welfare in maritime operations, recognizing that compensation for labor is fundamental to the functioning of the vessel.

The second tier of priority is accorded to claims for loss of life or personal injury sustained in direct connection with the operation of the vessel. This provision captures a broad spectrum of potential claims, encompassing incidents that may occur both on land and at sea. By affording such claims a high priority, the statute reflects a commitment to protecting the rights and wellbeing of individuals affected by maritime activities.

The third category concerns claims for rewards pertaining to salvage services, including special compensation that may be relevant. This acknowledges the critical role of salvors in maritime operations, incentivizing individuals and entities to engage in salvage activities that can mitigate losses and protect property at sea. The inclusion of this category in the priority list recognizes the dynamic and often perilous nature of maritime endeavors.

Fourth in line are claims related to port, canal, and other waterway dues, along with pilotage dues and any other statutory dues applicable to the vessel. These claims are essential for ensuring the smooth operation of maritime commerce and the maintenance of maritime infrastructure. By prioritizing these claims, the statute affirms the importance of fiscal responsibilities tied to vessel operations and navigation.

Fifthly, the provision addresses claims based on tort arising from loss or damage resulting from the vessel's operations, distinct from claims associated with the loss or damage to cargo and containers carried on the vessel. This delineation serves to clarify the scope of liability, ensuring that tortious claims linked to the operational activities of the vessel are adequately prioritized, while maintaining a clear separation from cargo-related issues.

Subsection (2) further expounds upon the continuity and extinguishment of maritime liens. It establishes that the maritime lien specified in subsection (1) shall remain in effect regardless of any changes in ownership, registration, or flag of the vessel. This provision safeguards the rights of claimants against the vessel itself, ensuring that maritime liens are not eroded by mere changes in vessel management or ownership.

However, the statute also sets forth a temporal limitation on the duration of these liens, stipulating that they shall be extinguished after the lapse of one year, unless the vessel has been arrested or seized, resulting in a forced sale by the High Court. This temporal restriction emphasizes the need for prompt action by claimants to enforce their rights and mitigate the risk of losing their claims through inaction.

An important exception exists for claims under clause (a) of subsection (1), where the period extends to two years from the date when the wage, sum, cost of repatriation, or social insurance contribution becomes due or payable. This extension reflects the particular significance attributed to crew claims,

recognizing the need for additional time to address issues related to crew compensation and welfare.

Subsection (3) delineates the commencement of maritime liens. For maritime liens specified in clause (a) of subsection (1), the lien arises upon the claimant's discharge from the vessel. This provision underscores the immediate recognition of claims relating to crew remuneration, ensuring that the rights of crew members are effectively acknowledged as soon as their service is concluded.

Conversely, for maritime liens articulated in clauses (b) to (e) of subsection (1), the lien commences when the claim arises, thereby allowing for continuity without any suspension or interruption. This continuous nature is essential for maintaining the integrity of claims and ensuring that claimants are not disadvantaged by administrative delays or other interruptions.

A significant stipulation within subsection (3) is the exclusion of the period during which the vessel is under arrest or seizure. This exclusion acknowledges the complexities involved in maritime claims and ensures that the time spent under arrest does not negatively impact the rights of claimants.

Subsection (4) introduces specific exceptions to the attachment of maritime liens, delineating circumstances under which no lien shall secure a claim. These exceptions are crucial for maintaining the balance between the rights of claimants and the need to regulate hazardous maritime activities.

The first exception pertains to damage related to the carriage of oil or other hazardous or noxious substances by sea. Claims arising from such incidents are subject to existing legislation governing hazardous materials, thereby ensuring that liability is addressed within a regulated framework.

The second exception relates to the radioactive properties of nuclear fuel or radioactive products or waste. This provision reflects a recognition of the

unique legal and safety considerations associated with nuclear materials, ensuring that claims arising from such properties do not fall under the purview of maritime liens as established in the Act.

Section 9 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, meticulously structures the hierarchy of maritime liens, offering a clear and systematic approach to the prioritization of claims. The provisions reflect a balance between protecting the rights of various stakeholders within the maritime industry while also recognizing the inherent complexities and risks associated with maritime operations. The establishment of temporal limitations and exceptions further refines this framework, ensuring that maritime law remains responsive to the evolving nature of maritime commerce and safety. The clarity afforded by this section serves to enhance the predictability and efficiency of maritime dispute resolution, thereby fostering a more robust and equitable maritime legal environment.