



Class Action Suits

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Why in News

Incidents such as the recent **Oil and Natural Gas Corporation Limited (ONGC) barge disaster** underline the **absence of effective class action suits/lawsuits in India.**

71 people were killed after **Cyclone Tauktae** damaged ONGC's barge vessels off Bombay High.

Oil and Natural Gas Corporation Limited

- It is a **Maharatna** Public Sector Undertaking (PSU) of the Government of India.
- It was **set up in 1995** and is under the **Ministry of Petroleum and Natural Gas.**
- It is the **largest crude oil and natural gas company in India**, contributing around 70% to Indian domestic production.

Key Points

- **About:**
 - It is a **case brought to court by a group representing a larger set of people**, often in thousands, who have **suffered the same loss**. Such a group forms a class.
 - It derives from **representative litigation**, to ensure justice to the ordinary individual against a powerful adversary.
 - The **accused in such cases usually are corporate entities or governments.**
 - Generally, in class action suits, the damages paid may be small at an individual level or may not even be quantifiable.
The **total damages calculated, however, could be large.**
 - The difference between **public interest litigation (Article 32 or Article 226 of the Constitution)** and class action suits is that unlike a class action suit, a **public interest litigation cannot be filed against a private party.**

- **History of Class Action Suits:**

- While class action suits have a **history dating back to the 18th century**, these were **formally incorporated into law in the US in 1938** under the **Federal Rules of Civil Procedure**.

It is a tool extensively used in the US where individuals or small communities, aggrieved by the actions of a large entity, come together to exercise legal options collectively.

- Over the years, class action has become so successful at curbing negligence, that it is **now a part of US corporate and consumer laws, environmental litigation, etc.**

- **Rules in India for Class Action Suits:**

- **Civil Procedure Code 1908 :**

- The **Code of Civil Procedure, 1908** is a procedural law related to the administration of civil proceedings in India.
- Rule 8 refers to **representative suits**, which is the closest to a classic class action suit in a civil context in India. **It does not cover criminal proceedings.**

- **Companies Act 2013:**

- **Section 245** of it **allows members or depositors of a company to initiate proceedings** against the directors of the company in specific instances.
- There are **threshold limits**, requiring a minimum number of people or holders of issued share capital before such a suit can proceed.
- This type of suit is filed in the **National Company Law Tribunal** (NCLAT) currently.

- **Competition Act 2002:**

Under Section 53(N), it **allows a group of aggrieved persons to appear at the NCLAT** in issues of anti-competitive practices.

- **Consumer Protection Act 2019** (replaced the 1986 Act):

The **Supreme Court** has held that in **certain complaints under the Consumer Protection Act 1986, they can be considered as class action suits.** (*Rameshwar Prasad Shrivastava and Ors v Dwarkadhis Project Pvt Ltd and Ors 2018*).

- **Benefits:**

- **Reduced Burden:**

- An immediate benefit is that the court has to hear only one case and not several. This **reduces the chance of similar cases clogging the already overburdened courts.**

- **Helps the Weak:**

- As **not everyone has the means or time to pursue a legal case**, a small group of people with funds or the ability to raise money can **bring justice to other victims who may be disadvantaged.**

- **Affects Brand Image:**

- **Companies are reluctant to face such suits** as it affects their brand image. They **prefer settling such cases faster** to minimize the damage to their reputation.
 - An advantage for the accused parties, however, is that they have to deal with only one case.

- **Challenges:**

- **Underdeveloped system of torts:**

- Tort law has **not developed sufficiently** in India for a number of reasons, primarily **due to the high cost and time-consuming nature of litigation.**

- **Lack of contingency fees:**

- The rules of the Bar Council of India **do not allow lawyers to charge contingency fees**, i.e., a percentage of the damages claimants receive if they win a case.
 - This **disincentives lawyers from appearing in time-consuming cases** that class action suits inevitably are.

- **Lack of Third-party financing mechanisms for litigants:**

- Since litigation costs are high, class action suits can be **made easier by allowing external parties to fund or sponsor the cost of litigation.**

- Some states like Maharashtra, Gujarat, Madhya Pradesh, and Karnataka have made changes in the Civil Procedure Code to allow this.

Little action, no class

India has seen several cases which would likely have become the subject of class action lawsuits in jurisdictions such as the US. These are some of them.

 <p>1984 Union Carbide</p>	 <p>2015 Nestlé (Maggi)</p>	 <p>2018 Johnson & Johnson</p>
<p>The world's biggest industrial disaster in Bhopal killed more than 15,000 people. Union Carbide, however, went scot-free.</p>	<p>Pesticide traces were found in Maggi samples. The product was banned and packets recalled, but Nestlé escaped with little damage.</p>	<p>J&J paid ₹25 lakh to ₹1 crore to at least 67 patients fitted with faulty hip implants on the direction of the Delhi high court and authorities.</p>

Way Forward

- India **should move in the direction of such accountability**, which is taken seriously in developed economies, and which makes them better abodes for employment and business.
- Lawyers should be incentivised for taking such cases, it will be a **good first step in bringing class action suits into the mainstream**.
- Class action suits are necessary **if India is to improve its ease of doing business rankings**, especially in disaster prevention and risk of life.

Source: IE