

Vikrant Yadav

The 1996 Arbitration and Conciliation Act with Amendments of 2015

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THE ARBITRATION AND CONCILIATION ACT, 1996

WITH AMENDMENTS OF 2015

BY:

DR. VIKRANT SOPAN YADAV

B.A., LL.M, NET, PH.D. (LAW)

Dedicated to Shri Sopan Yadav
& Surekha Yadav
my beloved parents

Contents

CHAPTER 1:	1
HISTORY OF ARBITRATION LAW	1
International Law	1
A Brief History of Arbitration Law in India	5
CHAPTER 2:	16
DOMESTIC ARBITRATION	16
Preliminary.....	16
Section 1. Short title, extent and-commencement.	16
Part- II.....	16
Section 2. Definitions.....	16
Section 3. Receipt of written communications.—	26
Section 4. Waiver of right to object.	27
Section 5. Extent of judicial intervention.	28
Section 6. Administrative Assistance.	29
Section 7. Arbitration Agreement.	30
Section 8. Power to refer parties to arbitration where there is an arbitration agreement.....	35
Section 9. Interim measures, etc. by court.	39
Section 10. Number of arbitrators.....	46
Section 10. Appointment of Arbitrators.....	47
Section 11. Grounds for Challenge.....	59
Section 12. Challenge Procedure.	61
Section 13. Failure or impossibility to act.	62
Section 14. Termination of mandate and substitution of arbitrator.	63
Part II- Chapter IV: Jurisdiction of Arbitral Tribunals	64
Section 15. Competence of arbitral tribunal to rule on its jurisdiction.....	64

Section 16. Interim measures ordered by arbitral tribunal.—	67
Chapter V: Conduct of Arbitral Proceedings	69
Section 17. Equal treatment of parties.	69
Section 18. Determination of rules of procedure.	69
Section 29. Place of arbitration.	69
Section 20. Commencement of arbitral proceedings.	71
Section 21. Language.	72
Section 22. Statements of claim and defence.	72
Section 23. Hearings and written proceedings.	73
Section 24. Default of a party.	75
Section 25. Expert appointment by arbitral tribunal.	77
Section 26. Court assistance in taking evidence.	78
Part II, Chapter-VI: Making of Arbitral Award and Termination of Proceedings	79
Section 27. Rules Applicable to Substance of Dispute.	79
Section 28. Decision making by panel of arbitrators. –	81
Section 29A. Time limit for arbitral award.—	82
Section 29B. Fast track procedure.—	84
Section 30. Settlement of disputes – Registration and Stamp duty	85
Section 31. Form and contents of arbitral award.	86
Section 31A. Regime for costs.	90
Section 32. Termination of proceedings.	92
Section 33. Correction and interpretation of award; additional award.—	92
Part II, Chapter VII: Recourse against Arbitral Award	93
Section 34. Application for setting aside arbitral award.	93
Section 35. Finality of Arbitral Awards.—	109
Section 36. Enforcement-	109
Part II, Chapter IX: Appeals	111

Section 37. Appealable orders.—	111
Part II, Chapter X: Miscellaneous.....	113
Section 38. Deposits.....	113
Section 39. Lien on arbitral award and deposits as to costs.....	114
Section 40. Arbitration agreement not to be discharged by death of party thereto.	114
Section 41. Provisions in case of insolvency.	115
Section 42. Jurisdiction.—.....	115
Sec. 43. Limitations.—	116
CHAPTER 3:	117
ENFORCEMENT OF FOREIGN ARBITRAL AWARDS	117
Enforcement of Arbitral Award: The Geneva and New York Conventions.....	117
Part II of the Arbitration and Conciliation Act, 1996: Reflection of International Statutes in Municipal Law	118
Section 44. Definition	119
Section 45. Power of judicial authority to refer parties to arbitration.	123
Section 46. When Foreign Award Binding.....	133
Section 47. Evidence.....	134
Section 48. Conditions for Enforcement of Foreign Awards.	137
Section 49. Enforcement of Foreign Awards.....	151
Section 50. Appealable Orders.....	153
Sec. 52. Chapter II not to apply.....	155
<i>Part II Chapter II: Geneva Convention Awards.....</i>	<i>155</i>
Section 53. Interpretation.....	155
Section 54. Power of judicial authority to refer parties to arbitration.	156
Section 55. Foreign awards when binding.	157
Section 56. Evidence.....	157
Section 57. Conditions for enforcement of foreign awards.....	158

Section 58. Enforcement of Foreign Awards.....	160
Section 59. Appealable Orders.....	160
Section 60. Saving.....	160
CHAPTER 4:	161
JUDICIAL RESPONSE TO ARBITRATION INDIA.....	161
Application of part I to foreign awards: Pre BALCO erroneous judicial interpretations	161
Bharat Aluminum Company and ORS. v. Kaiser Aluminum Technical Service, INC. And ORS. (BALCO-I) - A Case Study.....	165
Enforcement of foreign Award and Post BALCO Judicial trend: a Dawn New Era.	173
Commercial Divisions in High Courts: a New Beginning in Expeditious Judicial Determination of Commercial Disputes	183
CHAPTER 5:	187
CONCILIATION.....	187
Section 61. Application and scope.....	188
Section 62. Commencement of conciliation proceedings.....	188
Section 63. Number of conciliators.	190
Section 64. Appointment of conciliators.	190
Section 65. Submission of statements to conciliator.	191
Section 66. Conciliator not bound by certain enactments.....	191
Section 67. Role of conciliator.....	192
Section 68. Administrative assistance.....	193
Section 69. Communication between conciliator and parties.....	194
Section 70. Disclosure of information.	194
Section 71. Co-operation of parties with conciliator.	195
Section 72. Suggestions by parties for settlement of dispute.....	195
Section 73. Settlement agreement.....	195
Section 74. Status and effect of settlement agreement.	196

Section 75. Confidentiality.	197
Section 76. Termination of conciliation proceedings.	198
Section 77. Resort to arbitral or judicial proceedings.....	198
Section 78. Costs.....	199
Section 79. Deposits.....	200
Section 80. Role of conciliator in other proceedings.	200
Section 81. Admissibility of evidence in other proceedings.....	200
Part IV: Supplementary Provisions.....	201
Section 82. Power of High Court to make rules.	201
Section 83. Removal of difficulties.	201
Section 84. Power to make rules.....	202
Section 85. Repeal and savings.....	202
Section 86. Repeal of Ordinance 27 of 1996 and Saving.	203
THE FIRST SCHEDULE.....	205
THE SECOND SCHEDULE	210
THE THIRD SCHEDULE	212
THE FOURTH SCHEDULE.....	215
THE FIFTH SCHEDULE.....	216
THE SIXTH SCHEDULE	219
THE SEVENTH SCHEDULE	220
ARBITRATION AGREEMENT	222
(DRAFT)	222

Case Law	Page No.
1. <i>A v. B</i> , [2007] 1 Lloyds Report 23	176
2. <i>A. Ayyasamy v. A. Paramasivam & Ors.</i> , (2016) 10 SCC 386	101,128, 131
3. <i>A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies, Salem</i> AIR 1989 SC 1239	41
4. <i>Abdul Qadir v. Madhav Prabhakar</i> AIR 1962 SC 406	140
5. <i>Addhar Mercantile Private Limited v. Shree Jagdamba Agrico Exports Pvt. Ltd.</i> , Arbitration Application No 197 of 2014	80
6. <i>AK Kraipak v. Union of India</i> 1969 (2) SCC 262	87
7. <i>Akshaya Jain v. Airports Authority of India</i> 2000(3) RAJ 256 (Del)	57
8. <i>Alcatel India Ltd. v. Koshika Telecom Ltd.</i> , (2004) 3 RAJ 406 (Del)	151
9. <i>Ali Shipping Corp v. Shipyard Trogir</i> [1998] 2 All E.R. 136	75, 196
10. <i>Allen Berry & Co. v. Union of India</i> , AIR 1971 SC 696	103
11. <i>Anita Garg v. M/S. Glencore Grain Rotterdam B.V.</i> , 2011(4) ARBLR 59 (Delhi)	12
12. <i>Antrix Corp. Ltd. v. Devas Multimedia P. Ltd.</i> , MANU/SC/0514/2013	177
13. <i>Ardee Infrastructure Pvt. Ltd. v. Anuradha Bhatia</i> 2017 SCC Online Del 6402	108
14. <i>Arun Kapoor v. Vikram Kapoor</i> 2002(1) RAJ 285 (Del)	43
15. <i>Ascherberg v. Caja Musical</i> , (1971) 1 WLR 173, 1128 (CA)	138
16. <i>Ashapura Mine-Chem Ltd (“Appellant”) v. Gujarat Mineral Development Corporation</i> , 2015 (5) SCALE 379	123
17. <i>Ashok Traders (A Firm) v. Gurumukh Das Saluja</i> , (2004) 3 SCC 155	43
18. <i>Associate Builders v. Delhi Development Authority</i> 2014 (4) ARBLR 307(SC)	98, 147
19. <i>Atiabari Tea Co. Ltd. v. The State of Assam</i> AIR 1961 SC 232, (1961) 1 SCR 809	20, 120
20. <i>Atlas Exports Industries v. Kotak & Company</i> (1999) 7 SCC 61	80
21. <i>Atul Ltd. v. Prakash Industries Ltd.</i> 2003(2) RAJ 409 Delhi	42
22. <i>Aughton Ltd. v. MF Kent Services Ltd.</i> (1991) 57 BLR 1 (CA)	123
23. <i>B.T. Patil & Sons Belgaum (Construction) Pvt. Ltd. v. Konkan</i>	53

	<i>Railway Corporation Ltd.</i> 1998 (4) Bom CR 111 : 1998 (2) Mah LJ 327	
24.	<i>Babar Ali v. Union of India</i> (2000) 2 SCC 178	10
25.	<i>Baijnath v. Ahmed Musaji Saleji</i> , 40 Cal 219	200
26.	<i>Bajrang Electric Steel Co. P. Ltd, v. Commissioners for the Port of Calcutta</i> , AIR 1957 Cal. 240	155
27.	<i>Bata Shoe Co. v. Ganguly</i> , AIR 1961 S.C. 1158	192
28.	<i>Bhagwati Oxygen Ltd. v. Hindustan Copper Ltd.</i> (2005) 6 SCC 462, <i>Hyder Consulting (UK) Ltd. v. Governor, State of Orissa</i> , (2013) 2 SCC 719	86
29.	<i>Bharat Aluminium and Co. v. Kaiser Aluminium and Co.</i> (2012) 9 SCC 552	12, 25, 117,164- 172, 181
30.	<i>Bharat Aluminum Co. v. Kaiser Aluminum Technical Services</i> , Civ. App. 3678 of 2007	179
31.	<i>Bharat Coking Coal Ltd. v. M/s. Annapurna Construction</i> , (2008) 6 SCC 732	101
32.	<i>Bharat Oman Refineries Limited v. M/s. Mantech Consultants</i> , 2012 (2) Arb.L.R. 482 (Bom)	174, 178
33.	<i>Bharat Rasiklal v. Gautam Rasiklal</i> (2012) 2 SCC 144	140
34.	<i>Bhatia International v Bulk Trading</i> 2002(4) SCC 105; AIR 2002 SC 1432	25, 42, 89, 121,160, 161
35.	<i>Bhawarlal Bhandari v. Universal Heavy Mechanical Lifting Enterprises</i> , 1999 (1) SCC 558	111, 151
36.	<i>BHEL v. CN Garg & Ors.</i> , 2001(57) DRJ 154 (DB)	29
37.	<i>Board of Control for Cricket in India v. Kochi Cricket Pvt. Ltd. and etc.</i> Civil Appeal Nos.2879-2880 OF 2018 (Arising out of SLP (C) Nos.19545-19546 of 2016)	202
38.	<i>Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd.</i> , 2011 (5) SCC 532	100, 139
39.	<i>Buckeye Check Cashing, Inc. v. Cardegna</i> 546 U.S. 440	128

	(U.S.S.Ct.2006)	
40.	<i>Bulk Trading S.A, v. Dalmia Cement (Bharat) Ltd., 2006(1) RAJ 54 (Del)</i>	150
41.	<i>Burgess v. Purchase & Sons (Farms) Ltd.</i>	20
42.	<i>Canara Bank v. Nuclear Power Corporation of India Ltd. 1995 SCALE (2)162</i>	42
43.	<i>Central Inland Water Transport Corp. Ltd v. Brojo Nath Ganguly, 1986 SCR (2) 278</i>	143
44.	<i>Centrotrade Minerals & Metal v. Hindustan Copper 2016 (12) SCALE 1015</i>	111
45.	<i>Chemical Sales Agencies v. Naraini Newar AIR 2005 Del 76</i>	37
46.	<i>Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc., (2013) 1 SCC 641</i>	26, 125
47.	<i>Consolidated Engineering Pvt. Ltd. v. Irrigation Department(2008) 7 SCC 169</i>	99
48.	<i>Dalmia Cement Ltd. v. National Bank of Pakistan, (1974) 3 WLR 138</i>	121
49.	<i>Damodar Prasad Gupta v. Saxena & Co. AIR 1959 Punj. 476</i>	73
50.	<i>Deepak Mitra v. Distt Judge, Allahabad AIR 2000 All 9</i>	40
51.	<i>Delhi and World Sport Group (Mauritius) Ltd. v. MSM Satellite (Singapore) Pte. Ltd. AIR 2014 SC 968</i>	100
52.	<i>Dhannalal v. Kalawatibai, (2002) 6 SCC 16</i>	143
53.	<i>Dharma Prathishtanam v. M/s Madhok Construction Private Limited AIR 2005 SC 214</i>	20, 58
54.	<i>Dhenkanal Minor Irrigation Division v. N.C. Budhraj AIR 2001 SC 626; 2001 2 SCC 721</i>	87
55.	<i>Dubai Islamic Bank PJSC v. Paymentech Merchants Service Inc. [2001] 1 Lloyd's Rep. 65</i>	71
56.	<i>Emson Contractors Ltd. v. Protea Estates Ltd.[1987] 39 B.L.R. 126</i>	71
57.	<i>Enercon (India) Ltd. and Ors. v. Enercon GmbH and Anr. (2014) 5 SCC 1</i>	173, 174
58.	<i>E-square Leisure Pvt. Ltd. v. K.K. Jani Consultants and Engineering Compan (2013) 2 Bom.C.R. 689</i>	99

59.	<i>Euro-Asia Chartering Corp. v. Fortune International Ltd.</i> , AIR 2002 <i>Bom. 447</i>	135
60.	<i>European Grain and Shipping Ltd. v. Bombay Extraction Pvt. Ltd.</i> , AIR 1983 Bom. 36	119
61.	<i>Executive Engineer, Irrigation, Galimala v. Abhaduta Jena</i> , AIR 1988 SC 1520	86, 88
62.	<i>Export and Import Enterprises for Foreign Trade v. M Iftikhar and Co Ltd. (1993) SCMR 866</i>	122
63.	<i>Fatechand Himmatlal & ors. v. State of Maharashtra</i> AIR 1977 SC 1825: (1977) 2 SCC 670	20, 121
64.	<i>FCI v. M/s. Laxmi Cattle Feed Industries</i> , 2006 (2) JFT (SC) 552 : AIR 2006 SC 1452	39
65.	<i>Fern Shipping Ltd v. Ashapura Minechem Ltd.</i> , (2003) 3 RAJ 418 (Bora) : (2003) 3 Bom LR 948	150
66.	<i>Firm Ashok Traders v. Gurumukh Das Saluja</i> (2004) 3 SCC 155	41, 68
67.	<i>Fiza Developers and Inter-Trade Private Limited v. AMCI (India) Private Limited and another</i> (2009) 17 SCC 796	97
68.	<i>Food Corporation of India v. Indian Council of Arbitration</i> AIR 2003 SC 3011	52
69.	<i>Fountain Head Developers v. Mrs. Maria Archangela Sequeira</i> 2007 (3) Bom.C.R. 393	24
70.	<i>Fuerst Day Lawson Ltd. v. Jindal Export Ltd</i> (2011) 8 SCC 333	135
71.	<i>Fuerst Day Lawson Ltd. v. Jindal Exports Ltd</i> AIR 2001 SC 2293	110, 150
72.	<i>Furest Day Lawson Ltd. v. Jindal Exports Ltd.</i> , 1999(1) Arb LR 571	151
73.	<i>Gas Authority of India Ltd v. SPIE CAPAG SA</i> , (1994) 1 Comp LJ 374, 401 : AIR 1994 Del 75;	116, 122
74.	<i>General Electric Canada Inc v. National Hydroelectric Power Corpn. Ltd.</i> , (2003) 2 MI 383 (Del)	121
75.	<i>Gheru Lal v. Mahado Das</i> , (1959) 2SCA369	96
76.	<i>Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.</i> (2008) 4 Arb LR 497	144
77.	<i>Global Marketing Direct Ltd. v. GTL Ltd.</i> , (2004) 3 RAJ 275 (Bom)	124
78.	<i>Globe Cogeneration Power Ltd. v. Sri Hiranyakeshi Sahakari</i>	25, 41

	<i>Sakkare Karkhane Niyamit, Sankeshwar, Karnataka, AIR 2005 Karn</i>	
	94	
79.	<i>Great Offshore v. Iranian Offshore Engineering and Construction Company, Arbitration petition 10 of 2006</i>	164
80.	<i>Gujarat Water Supply & Sewerage Board v. Union Erectors (Gujarat) (P) Ltd. AIR 1989 SC 973</i>	102
81.	<i>Guru Nanak Foundation v. Rattan Singh & Sons</i>	187
82.	<i>H. G. Bajaj v. Share Deal Finance Consultants Pvt. Ltd., AIR 2003 Bom 296</i>	23
83.	<i>Haji Habib v. Bhikamchand, AIR 1954 Nag 306</i>	34
84.	<i>Harbour Assurance Co. (UK) Ltd. v. Kansa General International Insurance Co. Ltd ...</i>	128
85.	<i>Haresh Dayaram Thakur v. State of Maharashtra 2000(6) SCC 179</i>	194, 195
86.	<i>Hassneh Insurance Co of Israel v. Steuart J Mew, 1986 Revue de l' Arbitrage 583</i>	196
87.	<i>Heyman v. rins Ltd</i>	35
88.	<i>Hindustan Petroleum Corporation Ltd. v. M/s Pinckcity Midway Petroleum, AIR 2003 SC 2881</i>	33, 37, 52, 130
89.	<i>Hodgkinson v. Fernie, (1857) 140 ER 712</i>	105
90.	<i>Hyder Consulting (UK) Ltd. v. Governor, State of Orissa, (2013) 2 SCC 719</i>	86
91.	<i>ICICI Ltd. v. East Coast Boat Builders and Engineers Ltd. (1998) 9 SCC 728</i>	32
92.	<i>Konkan Railway Corporation ltd. v. M/s. Mehul Construction(2001) 7 SCC 728: AIR 2001 SC 3730</i>	56
93.	<i>Indian Organic Chemicals Ltd. v. Chemtex Fibers Inc., AIR 1978 Bom. 106</i>	119
94.	<i>International Asia Pvt. Ltd. v. Thapar Ispat Ltd., 2000(1) Arb LR 230</i>	201
95.	<i>ITI Ltd. v. Siemens Public Communications Network Ltd., (2002) 5 SCC 510</i>	111
96.	<i>Jajodia (Overseas) (P) Ltd. v. Industrial Development Corp. of Orissa Ltd. (1993) 2 SCC 106</i>	103
97.	<i>Jindal Exports Ltd. v. Fuerst Day Lawson Ltd. (2000) 4 RAJ 227</i>	132

98. <i>Jugal Kishore Rameshwardas v. Mrs. Goolbai Hormushji</i> , AIR 1955 SC 812	32
99. <i>Juggilal Kamlatpat v. General Fibre Dealers Ltd.</i> AIR 1955 Cal 354	76
100. <i>K.R. Rao v. State of Orissa</i> AIR 1989 Ori 97	58
101. <i>Kailash Rani Dang v. Rakesh Bala Aneja</i> (2009) 1 SCC 732: AIR 2009 SC 1662	76
102. <i>Kandla Export Corporation & Anr. v. M/S. Oci Corporation & Anr.</i> CIVIL APPEAL NO. 1661-1663 OF 2018	152
103. <i>Kapal R. Mehra v. Bhupendra M. Bheda</i> , 1998 (4) Bom CR 872	66
104. <i>KCSC (Kuwait) v. Sanghi Polyesters Ltd.</i> , (2003) 1 RAJ 350; (2003) 1 ALT 364 : 2002 Supp Arb LR 417 (AP),	138
105. <i>Keval Krishna Balakram Hitkari v. Anil Keval Hitkari</i> AIR 2000 Bom 108	37
106. <i>Khardah Co Ltd. v. Raymon & Co India (P) Ltd</i> , AIR 1996 SC 1810	34
107. <i>Khardah Company v. Raymon & Co. (India)</i> AIR 1962 SC 1810	31, 119
108. <i>KK Modi v. KN Modi</i> 1998 AIR SC 1297	31
109. <i>Koch Navigation v. Hindustan Petroleum Corp.</i> AIR 1989 SC 2198	119
110. <i>Konkan Railway Corp. Ltd. v. Mehul Construction Co.</i> AIR 2000 SC 2821; (2000) 7 S.C.C. 201	6, 9, 162
111. <i>Konkan Railway Corp. Ltd. v. Rani Construction (P) Ltd.</i> , (2002) 2 SCC 388	56, 163
112. <i>Konkan Railway Corporation Ltd. v. Mehul Construction Co.</i> (2000) 1 SCC 201 :2000 AIR SCW 2960	50, 52
113. <i>Konkan Railway Corporation Ltd. v. Rani Construction Pvt. Ltd.</i> (2000) 8 SCC 159 : 2000 AIR SCW 3908	51, 55
114. <i>Konkola Copper Mines (PLC) v. Stewarts and Lloyds of India Ltd.</i> 2013 (5) Bom. CR 29	174, 172
115. <i>Kotumal Pokardas v. Adam Haji Pir Mohammed</i> , AIR 1939 Sind 357	34
116. <i>Lesotho Highlands v. Impreglio SpA</i>	128
117. <i>LLP. State Electricity Board v. Searsole Chemicals Ltd.</i> , AIR 2001 SC 1171	106
118. <i>M. Mohan Reddy v. Union of India</i> 2000(4) RAJ 153 (AP)	61
119. <i>M.S. Sheriff v. State of Madras</i> (2000) 4 SCC 539	131

120. <i>M.V. Elisabeth v. Harwan Investment and Trading (P) Ltd.</i> AIR 1993 SC 1014	143
121. <i>M/s Continental Contraction Ltd. v. Food Corporation of India</i> AIR 2003 Del. 32	88
122. <i>M/S Shin Satellite Public Company ... v. M/S Jain Studios Limited,</i> (2006) 2 SCC 628	43
123. <i>M/s. Fair Air Engineers Private Ltd. v. M.K. Modi</i> (AIR 1997 SC 533)	38
124. <i>Madan Mohan Agarwal v. Suresh Agarwal</i> AIR 1998 (MP) 212	95
125. <i>Malaysia Airlines system BHD (II) v. Stic Travels (P)Ltd.</i> 2001, 1 SCC 509	59
126. <i>Marriott International Inc. v. Ansal Hotels Ltd</i> 2000(3) Arb.LR 369	162
127. <i>McDermott International Inc v. Burn Standard Co Ltd</i> 2006 (11) SCC 181	87, 104, 147
128. <i>MD Army Welfare Housing Organisation v. Sumangal Services</i> 2004 (9) SCC 619	68
129. <i>Minerals and Metals Inc. v. Hindustan Copper Ltd.,</i> 2006 (2) Arb. LR 547 (SC)	138
130. <i>Mukesh H. Mehta v. Harendre H. Mehta,</i> (1995) 5 Comp LJ 517, 522.	120
131. <i>Mukesh Nanji Gala v. Heritage Enterprises</i> (2015) 2 Bom.C.R. 123	106
132. <i>Mulheim Pipe Coatings GMBH v. Welspun Fintrade Ltd and Anr.</i> Appeal (L) No. 206 of 2013	126
133. <i>MulkRaj Chhabra v. New KenUworth Hotels Ltd.,</i> (2000) 9 SCC 546: AIR 2000 SC 1917	111
134. <i>Mysore Cements Ltd. v. Svedala Barmac Ltd.,</i> (2003) 10 SCC 375	194
135. <i>N. Poongodi v. Tata Finance Ltd.,</i> (2005) 4 CTC 577; 2005 (3) ARBLR 423 (Mad.)	111
136. <i>N. Radhakrishnan v. M/S Maestro Engineers</i> 2010 (1) SCC 72	100, 130, 140
137. <i>Narayan Prasad Lohia v. Nikunj Kumar Lohia</i> 2002 (3) SCC 572	46
138. <i>National Ability S.A. v. Tinna Oil Chemicals Ltd.</i> 2008 (3) Arb.LR 37	122
139. <i>National Thermal Power Corporation v. Singer Co.,</i> AIR 1993 SC	137, 153

140. <i>NBCC Limited v. J.G. Engineering Private Limited</i> (2010) 2 SCC 385	178
141. <i>Neelkantan & Bros. Construction v. Superintending Engineer National Highways, Salem</i> , AIR 1988 SC 2045	107
142. <i>New Okhla Industrial Development Authority v. M/s. Tandon Construction Company</i> , 1991 (1)CCC 475	107
143. <i>New Tirupur Area Development Corporation Ltd. (“NTADCL”) v. M/s Hindustan Construction Co. Ltd. (“HCC”) Application No. 7674 of 2015 in O.P. No. 931 of 2015</i>	179
144. <i>Nicholas Piramal India Ltd. v. Cultor Food Science Ltd.</i> , AIR 2003 AP 254 (DB)	126
145. <i>NNR Global Logistics v. Aargus Global Logistics, Nos. 61 and 201 of 2012</i>	148
146. <i>Oil & Natural Gas Corporation Ltd. v. SAW Pipes Ltd</i> AIR 2003 SC 2629; (2003) 5 SCC 705	96, 98, 80,142, 170
147. <i>Oil and Natural Gas Co. v. Western Geco International Ltd. (2014) 9 SCC 263</i>	104, 146, 147
148. <i>Orient Middle East Lines Etc. Ltd. v. Brace Transport Corporation...</i> AIR 1986 Guj 62	21, 132
149. <i>P. Anand Gajapathi Raju v. PVG Raju</i> , AIR 2000 SC 1886	29, 36, 52, 131
150. <i>P.R. Shah, Shares and Stock Brokers Pvt. Ltd. v. B.H.H. Securities Pvt. Ltd. & Ors.</i> 2012 (3) Mh.L.J. 737	96
151. <i>Pappu Rice Mills v. Punjab State Cooperative Supply and Marketing Federation Ltd.</i> AIR 2000 (P&H) 276	29
152. <i>Paradip Port Trust v. Unique Builders</i> (2001) 2 SCC 680: AIR 2001 SC 846	104
153. <i>Penn Racquet Sport v. Mayor International Ltd.</i> 2011 (1) ArbLR 244 (Delhi)	145
154. <i>Phulchand Exports Limited v. O.O.O. Patriot</i> 2011 (10) SCC 300	145, 170
155. <i>Picasso Digital Media Pvt. Ltd. v. Pick-A-Cent Consultancy Service</i>	58

<i>Pvt. Ltd.</i> , ARB.P. 635/2016	
156. <i>Pradyuman Kumar Sharma v. Jaysagar M. Sancheti</i> , (2013) 5 Mh.LJ 86	105
157. <i>Prem Raj v. Ram Charon</i> , AIR 2000 SC 1886	42
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160. <i>Raffles Design International India Pvt Ltd. (“Petitioner”) v. Educomp Professional Education Ltd.</i> , MANU/DE/2754/2016	180
161. <i>Rajasthan State Mines & Minerals Ltd. v. Eastern Engineering Enterprises</i> AIR 1999 SC 3627	101
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175. <i>Sadhu Singh Ghuman v. Food Corporation of India</i> AIR 1982 SC 1302	37
176. <i>Sanshin Chemicals Industry v. Oriental Carbon and Chemicals Ltd.</i> AIR 2001 SC 1219	70
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179. <i>SBP Co. v. Patel Engineering Ltd.</i> , (2005) 8 SCC 618	163
180. <i>Secretary Irrigation Department, Government of Orissa v. G.C. Roy</i> (2005) 6 SCC 462 : 2005 AIR SCW 1966	86
181. <i>Secretary, Irrigation Department, Government of India v. G.C. Roy</i> , AIR 1992 SC 732	87
182. <i>Secy. to Government Transport Department, Madras v. Munuswamy</i> , AIR 1988 SC 2232	60
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186. <i>Siddhivinayak Realty Pvt. Ltd. v. V. Hotels Ltd.</i> (2013) 7 LJ SOFT 22	102
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188. <i>Som Datt Builders Pvt. Ltd. v. State of Kerala</i> (2009) 10 SCC 259	103
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193. <i>State of Orissa v. Klockner and Co.</i> , AIR 1996 SC 2140	124
194. <i>State of Rajasthan v. Nav Bharat Construction Co.</i> , AIR 2000 Raj 180	103

195. <i>State of WB v. India Construction Co. (1989) 1 Cal LT 176</i>	69
196. <i>State of West Bengal & Ors. v. Associated Contractors (2015) 1 SCC 32</i>	114
197. <i>Subrata Roy Sahara v Union of India, (2014) 8 SCC 470</i>	184
198. <i>Sukanya Holdings Pvt. Ltd. v. Jayesh H. Pandya, (2003) 5 SCC 531</i>	26, 125
199. <i>Sundaram Finance Ltd. v. NEPC India Ltd. (1999) 2 SCC 479; 1999 AIR SCW 225</i>	50, 163
200. <i>Sundaram Finance Ltd.'s case 1999 AIR SCW 3220: (1999) 8 SCC 572.</i>	51
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202. <i>Swiss Timing Limited v. Organising Committee, Commonwealth Games 2010, Delhi, AIR 2014 SC 3723; 2014 (6) SCC 677</i>	100, 130, 140, 176
203. <i>T.W. Thomas and Co. Ltd. v. Portsea Steamship Co. Ltd. (1912) AC 1</i>	123
204. <i>The Board of Trustees of the Port of Kolkata v. Louis Dreyfus Armatures SAS and Ors. 2014 SCC Online Cal. 17695</i>	126, 176
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217. <i>Union of India v. Tecco Trichy Engineers and Contractors</i> 2005(1) RAJ 506 (SC)	89
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223. <i>Vikaram Kashinath Rawat v. Vinayak N Joshi</i> AIR 1999 SC 162	73
224. <i>Vikrant Tyres Ltd. v. Techno Export Foreign Trade Co. Ltd.</i> , 2005 (3) RAJ 612	150
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Chapter 1:

History of Arbitration Law

International Law

Hague Convention 1899.

International arbitration was given a more permanent basis by the Hague Conference of 1899, which adopted the Hague Convention on the pacific settlement of international disputes, revised by a conference in 1907. The Convention stated: “International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis of respect for law. Recourse to arbitration implies an engagement to submit in good faith to the award.”¹

The Geneva Protocol 1923.

The 1923 Geneva Protocol on Arbitration Clauses adopted by the League of Nations was a success both in terms of the number of States that became party to it and in regard to its contents. Its essential provision was that “Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not arbitration is to take place in a country to whose jurisdiction none of the parties is subject.” The Protocol also provided that the procedure, including the constitution of the arbitral tribunal, was to be governed by the will of the parties and by the law of the country in whose territory the arbitration took place. The content of the Protocol is today incorporated into Articles II and V (d) of the 1958 New York Convention with only minor changes.

At the same time a need was felt for an arbitration organization that would be “International”. Consequently, in 1922 the International Chamber of Commerce (ICC) adopted its first rules of arbitration and in 1923 established the Court of Arbitration. Although the headquarters of the ICC are in Paris, there has never been any suggestion that the ICC Court of International Arbitration (as it is now known) was a French arbitral organization.

¹ <http://www.britannica.com/EBchecked/topic/32313/arbitration/27077/Historical-development,2\7\12> 3.43PM