
AN ANALYSIS OF SPORTS BETTING IN INDIA

Ayush Hoonka, School of Law, CHRIST (Deemed to be University)

ABSTRACT

Sports betting in India has recently become very popular. It is a type of gambling by which a bet is placed on an outcome of an event. After the COVID-19 pandemic, there has been a substantial increase in the number of users indulged in sports betting. Further, there are various websites such as 1xbet, 365bet, PariMatch, 22bet etc. and apps such as Betway, 10CRIC, and PariMatch app, which facilitate these bets. However, a question arises about the legality of the websites. The Public Gambling Act of 1867 and the Information and Technology Act of 2000 both govern sports betting in India. Betting is prohibited under both of these acts, and the states are free to enact their own legislation. However, there is no explicit statute in the Indian legal system that forbids online betting. It appears that gambling sites are encouraging Indians to bet on anything by taking advantage of these loopholes, which are created due to the absence of proper laws in India. This article will analyse the constitutional validity of these websites and apps with the help of decided case laws and existing statutes in India.

Keywords – Sports Betting, Gambling, Legality, Constitutionality, Statute

Introduction

The earliest references to dice-based betting date to the epic stories of the Ramayana and Mahabharata, which were written around 2500 BC. Archaeologists have found clay dice, indicating that dice-playing dates back to this time period.

Some people use sports gambling as a hobby, while others do it to make money and reputation thrills by predicting the results of games. In some Indian states, gambling is permitted on specific sports, such as horse racing and lotteries, whereas it is prohibited in others. The Indian Government is gradually coming around to accepting sports gambling as a legitimate form of entertainment and a viable means of revenue as the weeks go there on.

India has a long history of sports betting, and research suggests that people from the Indus Valley engaged in animal fighting, horse racing, and placing bets. With the arrival of electronic sports gambling, technology is advancing across the globe, and Indians can freely gamble since it is allowed. There is a difference between games of skill and games of chance. The skill-based games are permitted in India because India they rely on the player's expertise. On the other hand, in India, games of chance are prohibited. Games can blur the distinction between skill-based and luck-based play. Currently, only horse racing betting is permitted in India. A report by the Federation of Indian Chambers of Commerce and Industry (FICCI) states that the total online betting market in India is worth more than Rs. 3,00,000 crore¹. However, betting poses a huge challenge due to the increase in match-fixing. Therefore, match-fixing poses a serious threat to games, and the advent of online betting has raised the possibility of fixing games for financial gain.

Due to the rise in fraud brought on by such betting and rigging, professional sports are severely and globally threatened. Therefore, if the outcome of any sports is already planned, sports lose their legitimacy, which takes away much of their significance and fan attraction. Given the popularity of sports in India, especially cricket, it is not surprising that many people have chosen to make bets on these events. In addition to domestic competitions, there are also international competitions. Placing a wager on a sports game in India is now simpler than before, thanks to the growth of online casinos and bookmakers.

¹ <https://ficci.in/SEDocument/20208/report-betting-conference.pdf>

Legality of Betting in India

All types of gambling and bettings are banned in India, according to the Public Gambling Act of 1867. This implies that you cannot bet on your preferred cricket matches, football matches, Badminton matches or any other sports. To make matters even more confusing, the law distinguishes between games of skill and games of chance. In India, gamblers are allowed to gamble on games of skill. A "game of skill" is mostly determined by a player's level of mentally or physically proficiency rather than by chance. A game of skill offers players the opportunity to test their athletic prowess, which is one of its most important advantages. The participants are encouraged by these games to become acclimated to a certain set of rules while searching for methods to develop and use new techniques through regular practice.

However, a "game of chance" is primarily determined by a random element of any kind. Even when talent is used in games of chance, winning is still mostly determined by chance. In the case of *Manoranjithan Manamyil Mandram v. State of Tamil Nadu (2005)*,² the court held that "Therefore, while it is the right of the appellant to have recreational activities which are not prohibited, the respondent's right to take appropriate proceedings against illegal games of betting, wagering, etc. is also provided for under the Act. Therefore, there cannot be a blanket direction as prayed for by the appellant. The question whether a particular game is a game of skill or chance is to be decided on the facts and circumstances of each case."

Further, in the case of *Dr. K.R. Lakshmanan v. State of Tamil Nadu (1996)*³, the Hon'ble Supreme Court came to the conclusion that horse racing should not be considered as gambling or gaming. It is a game which requires skills. It was perceived in this way based on the notion that horse racing is based on the inherent potential of the animal, the skills and knowledge and proficiency of the rider riding it, the shape and overall conditioning of the animal, the load it can hold, as well as the length of the race—all fair, factual information that can be evaluated or researched by racing fans.

The Indian Constitution's Seventh Schedule grants each state the authority to enact betting legislation. Except for Sikkim and Meghalaya, sports gambling is still forbidden in the majority of Indian states as of right now. Online gambling is a possibility in Sikkim via intranet facilities. A licence obtained in compliance with the Meghalaya Act is required for bookies to conduct

² AIR 2005 Mad 261

³ 1996 AIR 1153

business in Meghalaya. In India, there is no explicit legislation that controls bet and gaming. Making appropriate laws to regulate gambling and betting activities is necessary to safeguard the people from the negative impacts of these actions and to enhance transparency. There are numerous online betting companies that allow bets from all Indian states, and as they fall under the jurisdiction of UK gambling laws, nothing can be done about it.

In India, gambling and betting are not specifically regulated by law. To protect the public from the detrimental consequences of these behaviours and to improve accountability, it is vital to enact the proper legislation to control wagering operations. Nothing can be done about the multiple online bookmakers that accept bets from all Indian states because they are governed by UK gaming legislation, and it is completely legal in the UK. The Information Technology Act of 2000 is another legislative act that might relate to online gambling and internet betting. However, the law does not specifically name either internet gambling or sports betting, so it is left to the interpretation of the courts. Therefore, the law related to sports betting in India is unclear, and sports betting remains in the grey area.

Legalisation of betting

The Federation of Indian Chambers of Commerce and Industry (FICCI) estimates that the betting and gambling industry in India is worth Rs. 300,000 crores and is expected to grow.⁴ Further, 74% of respondents in the FICCI Survey voted that legalising sports betting will help curb match-fixing problem. The report states that –

Despite several attempts to ban it, betting is continuing albeit in an underground way and substantial resources have been invested into enforcing such a ban; Thus middle way out is it should be regulated in a way which reduces these social costs to an acceptable level. Hence, the Government should think of legalising and regulating betting.

It further states that regulating betting will help in –

- *"Protection for the young and vulnerable against the dangers of unwise betting behavior.*
- *Employment generation (more than 8000 people are employed in casinos in Goa).*
- *Fairer and more trusted betting experience for consumers with entertainment in a controlled and responsible way which they can trust.*

⁴ <https://ficci.in/SEDocument/20208/report-betting-conference.pdf>

- *Blow against organised crime like match fixing which threaten to damage public trust both in sport and in the legitimate betting industry.*
- *Taxation revenues for sports development and preventing sport betting from being linked to criminality or used to launder the proceeds of crime.*
- *Protecting players, coaches and all involved with sport unscrupulous approaches.*
- *Generating substantial revenues."*

India is the second-most populous country in the world, with a population of over 1.3 billion. Its population is also among the youngest in the world. Due to an unorganised sports gambling business, India is losing huge amounts of money to foreign bookmakers. Many online bookies accept bets from Indian sports enthusiasts and even accept their money. This demonstrates that current legislation is out-of-date and does not take into account the need for sports betting services.

Furthermore, the absence of a regulatory agency makes it impossible to calculate the rates of problem gambling. India needs to update its gambling regulations. The nation's economy would benefit from such a change, and bettors would benefit from a secure gambling market. However, not much has been done thus far, and it appears that India's status is unlikely to alter anytime soon. Certain states, including Tamil Nadu, have taken steps to outlaw online gambling within their borders. The state enacted an amendment in February 2021 that outlawed online gambling there. Unfortunately, this didn't finish for a very long time because of Madras High Court invalidated the Tamil Nadu Amendment before the end of 2021. The High Court ruled that this was unlawful since it contravened and was in violation of Article 19(1)(g) of the Constitution. The right to practise any profession or to engage in any occupation, trade, or business is guaranteed by this provision of the law.

The High Court found that this was unlawful since it contravened and was in violation of Article 19(1)(g) of the Constitution. The freedom to practise any trade or to engage in any occupation, trade, or business is guaranteed by this provision of the law. The court also determined that the state's goal of reducing the growing gambling-related issues in the state was out of line with the broad scope of the ban, which includes the outlawing of online poker, online sports betting, and online rummy. The court further stated that rummy had been

recognised as a game of skill rather than luck since 1968. Because of this, there should not be any reason to outlaw internet rummy.

The Rise in Online Betting in India

There has been a substantial increase in the number of people indulging in Online betting in India. There is some ambiguity around sports gambling. There are no restrictions that specifically forbid Indian citizens from using gambling websites that are situated in nations other than India, where online sports betting is permitted. Sports betting is considered illegal in India. Hence in order for it to be legal, the gambling sites must be outside of India. However, based on the surge in the number of Indian people placing daily fantasy sports wagers, it's probable that India could soon legalise this form of gambling. According to a poll, 40% of all Indian web users enjoy gambling. Even if it is unlawful under the current legal system, Indians are unstoppable, right? The industry for illegal gaming in India is worth more than \$100 billion and is expanding at a 7 per cent interest growth! Sports gambling makes up the bulk of it.⁵

Further, the fact that Indians currently spent one-third of their waking hours on their phones since 2020 is yet another potential explanation for the growth of online sports gambling in India. Many sports betting sites feature sites or applications that are easy to use on smartphones, which draws a lot of users. It is safe to claim that Indians use their smartphones more frequently than they use their desktop and laptop PCs. This is unquestionably one of the key causes of the increase in online sports gambling in India.

Basketball, tennis, and cricket are other popular sports for wagering. Cricket accounts for over 80% of illegal sports betting in India. Over 60% of all sports wagers worldwide, according to data, are made on the black market.⁶ This demonstrates that even if sports betting were to become legal in India, the black market for betting would still exist. However, due to the unavailability of any laws in India, Indians are attracted to foreign online sports betting companies to bet and earn money.⁷

The Indian Government would benefit from the tax income by taxing these activities, even though the legal sports betting industry won't completely replace the illicit one. Lottery and

⁵ <https://timesofindia.indiatimes.com/readersblog/findustry-insights/legalizing-sports-betting-in-india-26365/>

⁶ *supra*

⁷ <https://economictimes.indiatimes.com/news/sports/indians-flock-to-sites-like-parimatch-and-betaway-in-the-absence-of-legal-platforms-in-the-country/articleshow/90786734.cms>

horse race winnings are currently subject to a flat 30 per cent tax. With such enormous potential, the betting market will likely bring in significant tax money for the Government. Therefore, this would not only act as an additional source of income for the Government but also help the people of the country. And not just the Government that will benefit financially. Think about it: If viewers can legally wager on games, they will be more likely to watch sports. As a result of the rise in viewers, this will benefit the presenters. Consequently, the economy, employment, revenue, and economic output.

There would be an increase in legal and economic activity because employees in illicit sports betting enterprises now spend a percentage of their pay on legitimate pursuits. It goes without saying that if this new industry develops, it will boost jobs and open up new business prospects. Due to more people watching and participating in sports, leagues frequently gain as well. But the Government should first create a suitable framework. If not, it might end the legal market before it even gets off the ground. There is no universally applicable regulation or law that governs sports betting. Based on socioeconomic requirements, societal interests, political interests, etc., various nations have adopted various strategies.

Conclusion

Since it has been around for a while, sports betting has grown in popularity all around the world. Because many people enjoy watching sports around the globe, sports betting in especially has grown quite popular. Online sports betting has been a significant industry in India over the past several years, and it appears that this trend will continue. But it hasn't always been simple for Indian gamblers and sports fans to wager on their preferred teams since the country's betting rules have just not made it possible to do so in a legal way as India lacks proper rules and regulations regarding online betting.

Therefore, India needs to implement laws to govern online sports betting. The current set of laws is not enough to meet the needs. Sports betting laws in India are a very confusing and complex subject because every country has its own legislation relating to Sports betting. Most of these laws fall short of defining precisely what is legal and what is not. They are two centuries old. With the exception of horse racing, most forms of sports betting are prohibited in India. The laws of several states or the general laws of India apply to all other sports. Therefore, the Government needs to regulate online betting in India, which will help the Government itself to generate revenue. When it is regulated, the Government can tax the

persons who can be used for the betterment of the people, and the income of the people will not go unnoticed.