
ARBITRATION IN AVIATION: THE URGENT NEED FOR SECTOR-SPECIFIC MECHANISMS

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ABSTRACT

The paper takes a look into the legal mechanisms employed in the aviation industry in the contemporary times. Disputes arising in the sector are of a diverse nature ranging from commercial to passenger related concerns. International conventions contain provisions regarding dispute resolution in the form of the ones incorporating traditional practices. On the contrary, arbitration clauses represent a modern approach with better cost and technical efficiency. An attempt has been made to analyze sector-specific arbitration and specialized tribunals in the aviation sector, especially in India which seem to be at a nascent stage. Legislations such as the Protection of India Aircraft Objects Act, 2025, the Bharatiya Vayuyan Adhiniyam, 2024 and other supporting regulations have tried to incorporate clauses that deal with such questions to a fair measure. A perusal of landmark cases related to the issue is done which outrightly points out to the fact that sector specific legal mechanisms in aviation disputes ensure for a faster and more effective resolution of disputes, both in terms of cost and technicality. Other advantages make the scales of balance shift in favor of arbitration, sometimes a combined approach of arbitration and mediation. Enforcement and better justice delivery tailored to the needs of the stakeholders in an aviation dispute has led to majority of those involved in such disputes prioritizing arbitration over other choices. All of this has led to an intensified focus of policy makers and private institutions to incorporate such forums, leading to an enhanced, streamlined and advanced mechanism, both nationally and internationally. The research paper thus, takes a documentary and analytical approach to validate the hypothesis that sector specific arbitration procedures and forums tend to yield better and optimized outcomes in aviation disputes, particularly.

INTRODUCTION

Aviation law is itself is considered to be a specialized area of legal practice, constituting its own principles and frameworks. Dispute resolution is detailed, including specific provisions for the forum of resolution and enforcement mechanisms. There is a choice to either go ahead with the traditional litigation process, which has been the trend for a majority of years now or to adopt the specialized and distinct dispute resolution mechanisms guaranteeing greater expertise and enforceability, even for the minutest of disputes. Although traditional litigation has proved itself to be a robust choice over the years, there has been considerable development in the alternative dispute resolution mechanisms such as arbitration and mediation. From international conventions and regulations such as the Convention on International Civil Aviation, the Cape Town Convention, and the rules governing the Hague Court of Aviation Arbitration to national legislations such as newly incorporated Bharatiya Vayuyan Adhiniyam 2024 and the Protection of Aircraft Objects Act 2025, sector specific resolution mechanisms are on the rise.

SECTOR SPECIFIC ARBITRATION - A CONTEMPORARY APPROACH

Disputes arising in the aviation sector are highly specialized and unique to the requirements. Given the industry's complexity and high value transactions, along with the involvement of multiple stakeholders ranging from airlines, airports, regulatory bodies, service providers and the like, conflicts of a variety of nature arise. Some of the most common ones are the ones including aircraft sale, leasing and other maintenance agreements. Commercial disagreements include over pricing, commissions, or market access. Those of the regulatory nature are concerned with specific compliance with the related national and international standards and procedure. Technical and intellectual property disputes also arise in the same pool and include cases involving defective aircraft or parts and patents or software systems respectively. Employment related services also make up for some percentage of the cases that this legal domain faces.

For a more effective resolution of such disputes, arbitration is considered trustworthy and effective for a few major reasons. The first one is confidentiality, which is of extreme importance in aviation disputes since there is sensitive commercial and technical information that is shared and circulated among the parties involved in the suit. Apart from that, effectiveness in terms of the time required to dispose of the cases and cost input is a major

reason for going ahead with arbitration. Furthermore, a nuanced understanding of the complex topics and issues that are involved in aviation disputes is required by the practitioners and for that arbitration provides the perfect opportunity to the parties in question or for the arbitration panel to choose who gets to be a part of the proceedings. Arbitration usually comes with a free choice on the appointment of arbitrators and for aviation matters, those who have a deep expertise in the related industry practices are preferred. International agreements and conventions allow the arbitral award to be enforceable across nation states and borders and for that constitutes a major reason for the stakeholders to choose this forum.¹

UNIVERSAL NORMS AND REGULATORY MEASURES

In India's Aviation sector though, there is a huge gap in sector specific arbitration mechanisms, mostly due to there being no strong history dedicated frameworks or institutions for such matters. In such a case, international arbitration mechanisms hold a good ground for the resolution of disputes. India, in the current scenario, where high commercial interests are at stake, is still at a formative stage for the laws concerned with aviation and it being a proper legal field. What it lacks is a comprehensive and standalone legislative structure that proves effective, given all the trials and challenges. This gap, however, is filled with policies and treaty commitments that India is a signatory to. Almost all major international aviation legal treaties that have been formed, have included India as an entity. International cooperation and reliability in civil aviation is one area that helps India to catch up leading to a reliable settlement of disputes. One of the earliest known such conventions is the Convention on International Civil Aviation², which is more popularly known as the Chicago Convention, signed in 1944. The Montreal Convention, Warsaw Convention and the Hague Protocol, Tokyo Convention are some others that follow.

Dispute resolution in such conventions is done through specific provisions mentioned, usually focusing on the national courts. But, a major shift in most of the recent procedures has been seen towards more technical and specialized mechanisms. Contracting parties are given an option to ADR mechanisms by specific contract clauses for such instances. Arbitration for civil aviation in India is most commonly carried through the Arbitration and Conciliation Act, 1966³

¹ Sankalp Mirani, Aditi Mishra, Vanshika Chaudhary, Apporve Bhagel, "Are Aviation Disputes Solved Arbitrarily?", (2023) 9(11) International Journal of Innovative Research in Technology 318, ISSN: 2345-6002 (MNLU Mumbai).

² Convention on International Civil Aviation, Dec. 7, 1944, 15 U.N.T.S. 295.

³ The Arbitration and Conciliation Act, 1966 (Act 26 of 1996).

but cases are most generally resolved by the international arbitration bodies responsible for it. The Indian Council of Arbitration (ICA) and Mumbai Centre for International Aviation (MCIA), operating under the commercial sector play a humongous role for the procedures to be followed and the cases to be resolved. Such resolution mechanisms, have pre-dispute settlement clauses that enable for a faster delivery of decisions. Agreements of the like constitute in their list the Communication Navigation Surveillance, Air Traffic Management Provision Agreements and others such as Selected Airline Operator Agreements.⁴ There are a set of Selected Airline Operator Agreements, that more or less rely on the binding nature of the arbitration act and the clauses that it provides, rather than the specific clauses given in the agreements. In generality and in actual practice, the law in India for such disputes is based on the general laws instead of proper sector specific arbitration mechanism.

Coming to the jurisdiction of the disputes arising in this context and the determination of courts for matters, the Cape Town Convention provides for Article 53 which states that the contracting party may during ratification, acceptance, approval of, or accession to the Protocol, declare the relevant court or courts for the purposes of Article 1 and further, Chapter XII of the convention.⁵ The chapter clearly designates the choice of forum. According to the article, the courts of a contracting state are vested with the jurisdiction for any claim brought under the given convention. The forum has to be exclusive unless otherwise agreed by the parties. Article 43 explains that the jurisdiction to grant relief may be exercised by the courts that are chosen by the parties or by the courts of the contracting state on the territory of which the debtor is situated and which by the terms of the order granting it, is only enforceable in the territory of the contracting state.⁶

This allows the reader to think that in actuality, there are no sector specific provisions. While arbitration and mediation are new age resolution procedures, so to say, the majority of conventions focus on traditional processes and aspects that may or may not lead to the expected outcome. One of the solutions for a faster and a more neutral process is to examine and implement the dedicated and tailored procedures for the resolution of disputes provided in the Hague Court of Arbitration for Aviation.⁷ It is of utmost importance to mention here that the

⁴ These include the official policy document from the Airports Authority of India containing details about provision, modernization, and operation of the CNS/ATM facilities at airports and other selected airline operator agreements.

⁵ Convention on International Interests in Mobile Equipment (2001), Article 53- Determination of Courts.

⁶ Convention on International Interests in Mobile Equipment (2001), Article 43- Jurisdiction under Article 13.

⁷ Hague CAA, available at: <http://haguecaa.org/> (last visited on 10 August 2025).

dispute resolution center is administered by the Netherlands Arbitration Institute⁸ which is considered to be one of the world's oldest arbitral institutions. The idea of having a diverse board including the advisory board and different committees, which consist of more than 80 senior professionals who are well versed with such laws that deal with arbitration and aviation combined, sets the institution apart. The institution has proven to be till date extremely cost effective and impartial. The platform has combined arbitration with mediation and has provided for an extremely reliable method and forum for aspiring countries to include and implement the same in their laws. As a logical consequence, the forum provides frameworks for both arbitration and mediation and makes an effort to ensure that there is sufficient access to the efficient and cost-effective ways for the process to be carried forward and for the dispute to be resolved.⁹ One of the key components of the rules that is of extreme relevance to the issue at hand is that the rules are specifically designed for challenging the dynamic issues in the aviation industry and are a result of the collaboration between a consortium of aviation and arbitration professionals who have been dealing with the complexities of the sector for a major number of years. For the rules to be relevant and contemporary, there are continuous enhancements that take place, the most recent one being the one in February 2023 for the resolution of contractual disputes.¹⁰ The rules ensure that the process becomes faster than usual international arbitration procedures and litigations.

Mediation may work if processes and procedures are given a legal and robust framework. There is seen to be a general absence of systematic guidelines for the particular sphere of aviation. There are also differences in terms of jurisdictions which tend to show in areas of implementation and the effectiveness of the decisions. Thus, it is commonly noticed in all such agreements, mediation clauses are generally absent and are not seen to be a highly trustworthy and focused method of dealing with such disputes.¹¹ There is an unearthly gap when it comes to a combination of such alternative dispute resolution mechanisms that could provide a proper mechanism for providing the perfect forum for such disputes. Research implies that a compatibility of different fields of laws is possible but there is little to no evidence to support

⁸ The NAI works to promote different types of alternative dispute resolution such as arbitration, mediation, binding advice.

⁹ Michael Greenop FCI Arb, "Navigating the Hague Court of arbitration Arbitration for Aviation, 2023, WilmarHale.

¹⁰ Hussein Haeri KC, Christopher Birks, Abdul Sattar, "An update on the rules for the Hague Court of Arbitration for Aviation- What does this mean for disputes in the aviation industry?", 17 February 2023.

¹¹ Rishabh Tomar, "Mediation in Airport Concession and Infrastructure Disputes", Journal on Arbitration Law and Allied Fields, Volume 1, Issue 1.

this proposition.¹² Policy and law making are the steps forward for the same and are needed to enhance the entire structure of how such cases are dealt with.

NATIONAL LEGISLATIONS AND REGULATIONS

In the Indian context particularly, there have been legislations that have helped aviation related dispute resolution to take strides ahead. All the key legislations in this regard focus on combining sector specific requirements with the usual and general clauses of arbitration contained in the Arbitration and Conciliation Act, 1996.¹³ Domestic and international arbitration agreements generally are on terms with the UNCITRAL Model Law.¹⁴ Although there are no dedicated aviation arbitration tribunals but the related institutions dealing with such laws carry the cases forward.

The most recent development in this area is the enactment of the Protection of Interests in Aircraft Objects Act, 2025¹⁵ which aims to provide for the protection of interests in aircraft objects and to implement the conventions in relation therewith. The act is based on the Cape Town Convention, which is primarily designed to provide a uniform and global framework for the protection of legal interests of the creditors and lessors who are involved in aviation equipment of the day.¹⁶ Although, being a general convention, it does contain certain specific protocols mainly used for aircraft financing and leasing.¹⁷ By the ratification done this year, the sector specific growth holds a good chance for growth, both in terms of policies and practices.¹⁸ The act very specifically deals with the secondary issues as well and explains the position on how the legal proceedings concerning aviation are handled under the current scheme in the Insolvency and Bankruptcy Code¹⁹. One of the major effects of the inclusion of this is the proper and specific implementation of Alternative A. India would thus apply Article XI, Alternative A, in all its entirety for all sorts of Insolvency proceedings for which the waiting

¹² Vipav Sharma, International Aviation Arbitration: A Critical Analysis of Emerging Trends, available at: <https://www.scconline.com/blog/post/2023/09/01/international-aviation-arbitration-a-critical-analysis-of-emerging-trends/> (last visited on 10 August 2025).

¹³ The Arbitration and Conciliation Act, 1966.

¹⁴ United Nations Commission on International Trade Law (UNCITRAL), "Model Law on International Commercial Arbitration" (1958).

¹⁵ Protection of Interests in Aircraft Objects Act, 2025 (Act 17 of 2025).

¹⁶ Cape Town Convention and Protocol, available at: <https://www.icao.int/cape-town-convention-and-protocol> (last visited 15 August 2025).

¹⁷ These contain provisions on the creation, registration and enforcement of international interests, default and insolvency remedies such as those in Article XI, written agreement formalities, and borrowing costs.

¹⁸ The act came into force on 1 May 2025. It was ratified on April 16, 2025.

¹⁹ The Insolvency and Bankruptcy Code, 2016.

period is considered to be two calendar months.²⁰ It is deemed to be legally binding in India and prevailing over some of the conflicting provisions in the Insolvency and Bankruptcy Code.²¹ Further, when it comes to the effectiveness of the convention in terms of the act, Section 6(b) clearly states that, “the international interest of the agreement has been registered in accordance with the Convention and Protocol.”²²

The Protection of Interests in Aircraft Objects Act, 2025²³ enhances the arbitration framework for the same in India by combining the Cape Town Convention and the related Aircraft Protocol domestic law. It provides for a specialized legal regime dealing with cases involving ownership, financing, leasing, repossession of aircraft and its components, including others. It further establishes the Directorate General of Civil Aviation (DGCA) which serves as the central authority for such aircraft interests.²⁴ Contractual disagreements between the lessors and the lessees concerning defaults, policy of creditors, enforcement of security interests, and rights upon insolvency are of crucial importance for arbitration under the statute. Cross border aviation financing disputes in arbitration proceedings that include binding enforcement mechanisms foster investor confidence and also align the Indian aviation arbitration sector with international standards and norms. As a logical consequence, growth of India’s arbitration proceedings in aviation is expected and would even lead towards a proper forum for the disposal of affairs in the form of aviation arbitration tribunals.

One of the earliest known Indian legislations for the legal sector in aviation has been the Aircraft Act of 1934.²⁵ It focused primarily on a proper legal framework for the regulation and control of areas ranging from manufacture to export, and better provisions for the safety and oversight of such civil aviation activities. Rulemaking provisions on certain aspects of aviation such as air traffic control, safety measures, investigation and registration of aircrafts were provided to the government along with the power to detain aircraft and to also ensure safety and health in relation to aviation. The government had been enabled to establish any sort of

²⁰ “Implementation of the Cape Town Convention in India: A Legal Framework for Protection and Enforcement of Security Interests in Aircraft.” *Economic Laws Practice*, April 2025.

²¹ Harshita Kushwah, “Navigating Turbulence: Indian Insolvency Regime and the Cape Town Convention in the light of GoFirst Voluntary Insolvency”, available at: <https://ibclaw.in/navigating-turbulence-indian-insolvency-regime-and-the-cape-town-convention-in-the-light-of-gofirst-voluntary-insolvency-harshita-kushwah/?print=print> (last visited on 11 August 2025).

²² The Protection of Interests in Aircraft Objects Act, 2025, Section 6(b).

²³ The Protection of Aircraft Objects Act, 2025.

²⁴ Section 2(m) of the Protection of Aircraft Objects Act, 2025 describes registry authority as the Directorate General of Civil Aviation.

²⁵ The Aircraft Act, 1934 (XXII of 1934) (India).

penalties for the contravention of the provisions of the act when there is non-compliance. The previous law, thus, focused on structural efficiency of the laws and provided for an intense set of rules and provisions that enabled to handle the disputes regarding disputes of the related nature. A recent amendment for the same act came in 2024 named the Bharatiya Vayuyan Adhiniyam, 2024²⁶ keeping in mind the contemporary needs and notion of the legal sector. To be at par with the international standards and norms that the decade exhibits, the amendment was called for. The new legislation attempts to modernize this colonial era legislation for it to help the contemporary aviation legal situation of the nation. It primarily focuses on basic aircraft operations and licensing to broaden India's horizon with respect to the commercial realities and international benchmarks. Regarding its impact on the arbitration sector in India's aviation disputes, there are new avenues for appeals and proceedings. International conventions have been under significant highlight and norms have been created to incorporate as many reasonable provisions in the sector as the current scenario demands. Formalized alternative dispute resolution mechanisms have been a major focus in this regard. Investor confidence and commercial certainty are some of the reasons which enable the forum to be effective for such resolutions.²⁷

One of the most common examples of such an issue is a compensation dispute. For the purpose of safety and regulatory compliance, the affected owners of the aircraft going for demolition or modification are made entitled to compensation. Due to the lack of understanding in such agreements seen usually, arbitrators are appointed by the government under the mentioned act.²⁸ As per Section 18 of the act, the person must be qualified enough to be appointed as a judge of the high court and must possess sector-relevant legal expertise and a level of impartiality benchmarked by precedents and previous laws.²⁹ However, the act, when it was in the stage of a bill, raised concerns about the appointment of the arbitrator unilaterally. The Supreme Court in 2024 stated that this provision is violative of article 14 of the Constitution guaranteeing the right to equality. The bill also specifically stated that the Arbitration and Conciliation Act, 1966 would not apply to such arbitrations.³⁰

²⁶ The Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024).

²⁷ The Bharatiya Vayuyan Vidheyak, 2024, available at: <https://prsindia.org/billtrack/the-bharatiya-vayuyan-vidheyak-2024> (last visited on 11 August 2025).

²⁸ The Bharatiya Vayuyan Adhiniyam, 2024, S. 18

²⁹ Ibid.

³⁰ Aneya and Akansha Sharan, *Pioneering Change or Perpetuating Flaws? A Deep Dive into the Bharatiya Vayuyan Vidheyak, 2024*, NLIU Law Review, January 27, 2025.

Under the act, there are provisions for independent regulators to determine areas such as the necessary conditions for obtaining liability, the guidelines for the service pricing, providing a fair system for the private operators and the like. Appeals for the decisions of all such cases are heard by an appellate tribunal set up specifically for this purpose. This serves the purpose of having a specialized legal arena for such disputes, which could further serve as a strong suggestive proof of successful sector-specific arbitration tribunals in the aviation sector. Failures such as bureaucratic influence, conflicting interests, and the most difficult of all, the sheer lack of technical expertise required in such disputes pose an issue. This is usually acknowledged between the government and private entities and could be removed to a major extent, if the sector further flourishes.

One such area where this has become a reality is the appellate procedure against the orders for the Airport Regulatory Authority of India (AERA) which are particularly heard by the Telecom Disputes Settlement and Appellate Tribunal for a better and efficient disposal of the affairs.³¹ The major focus is on tariff and fee regulation for the aeronautical services such as landing, cargo, fuel supply, navigation, and passenger services.³² Decisions of the authority are regulatory and binding under this act and thus, there is speedy and effective resolution of disputes ensuring that fair competition fosters and user interests are not compromised in the airport and aviation industry.

Apart from major legislative acts, supporting regulations play a huge role in maintaining and dealing with such cases. These include the Civil Aviation Requirements (CARs), the Bureau of Civil Aviation Security and others to ensure that there is a proper procedural pathway for the resolution for operational, safety and security related matters.

CASE STUDIES SUPPORTING SECTOR SPECIFIC ARBITRATION IN AVIATION

There have been a multitude of cases when it has come to such areas of law and a multitude of decisions for that purpose. But what's key to note here is that the decisions have more or less all focused on a requirement of an enhanced and technical approach augmenting precision and accuracy for better disposal. One of such instances has been the Deoghar Airport Case,³³ decided on January 21 2025. The case involved an appeal to the Supreme Court on Jharkhand

³¹ Airports Economic Regulatory Authority of India vs Delhi International Airport Ltd. And Ors., Civil Appeal Nos. 3098-3099 of 2023.

³² The Bharatiya Vayuyan Adhiniyam, 2024, Explanation to Section 10(c).

³³ State of Jharkhand vs. Nishikant Dubey, 2025 INSC 94.

High Court's decision on quashing an FIR involving sections of the Indian Penal Code and those of the Aircraft Act, 1934, particularly Sections 10 and Sections 11A.³⁴ The basis was held to be the lack of the required sanctions under the Act. The Aircraft Act of 1934 is evidently a specialized law and overrides the general provisions of the Indian Penal Code, as the interpretation of statutes provide. The Supreme Court further reiterated that the materials gathered during the investigation must be submitted to the Director General of Civil Aviation, a provisional head under the Act itself, creating a pathway to a more specialized decision as per technicality. The judgment emphasized the independent nature of the act for such disputes and stated, "In view of the above facts, reasons and analysis and considering that Aircraft took off after permission of the ATC, Aircraft Act, 1934 is itself a complete code and there are procedures prescribed therein to lodge the complaint and of enquiry".³⁵ Further, the Aircraft Act focuses on a special procedure for taking the cognizance of any punishable offences under the same and states that if a complaint is to be made, it has to be made by or with the prior permission of the authorities described. Thus, as proven by precedent, focus on special laws and legal obligations provided therein is of the utmost importance in such disputes.

Another scenario arose in the case of Delhi International Airport Pvt Ltd. vs Union of India and Ors. This was in the form of a writ petition filed in the Delhi High Court where the constitutional validity of Section 12(3)(r) of the Airport Authority of India 1994 was questioned and it was held to be against Article 14 and 21 of the Constitution of India.³⁶ The petitioner, not relying on the violation of Article 21, confined the plea to an inconsistency between the mentioned provisions of the Airport Authority of India. The inconsistency mentioned was deemed to be extremely arbitrary and unreasonable to be violative of the right to equality of the constitution. There was seen to be no such inconsistency between the two impugned sections. The section mentioned the setting up of a joint venture to assign a particular function assigned to the authority mentioned in Section 12(1) of the act in question. A harmonious construction of both the provisions by the court allowed for their coexistence and deemed the two as complementary to each other. Section 12(3)(r) was said to be a vehicle required to carry out the mandate of the functions prescribed under Section 12(3)(1).³⁷ The decisions clearly highlighted the precedence of specific provisions and the demarcation of powers based on

³⁴ Sections 10 and 11 deal with the penalty for act in contravention of rule made under this act and penalty for failure to comply with directions under Section 5A, respectively.

³⁵ State of Jharkhand vs. Nishikant Dubey, 2025 INSC 94.

³⁶ Writ Petition (Civil) No. 8919/2009.

³⁷ Ibid.

technicality and expertise. Sector specific arbitration can thus clearly provide a bespoke forum which would result in a swifter and more equitable procedure.

Another case that could be analysed in this regard is *Indian Airlines Ltd. Vs Prabha D. Kanan*.³⁸ The case primarily was concerned with the challenge to the validity and applicability of Regulation 13 of the Indian Airlines (Flying Crew) Service Regulations under the Air Corporations (Transfer of Undertakings and Repeal) Act, 1994³⁹. The regulation allowed termination without a valid reason and the Supreme Court upheld the constitutional validity of the same. In this particular instance though, the conduct was deemed to be improper due to the unique and particular circumstances of the case and awarded compensation to the plaintiff. Such employment related disputes can be resolved at a faster pace if arbitration comes into the picture. Disputes like wrongful termination, regulation related grievances, service condition claims and the like can be managed through arbitration with greater precision and efficiency than conventional litigation. Legislations and statutes, if can develop to devote a greater proportion to arbitration provisions in detail can provide for a much cost effective and confidential forum for the resolution of such disputes. In this particular instance, the issues raised related to fair process, natural justice, and the limits of employer discretion. These could have been addressed easily by using sector specific expertise in aviation and employment practices.

In *Kunal Kamra vs Indigo Airlines*⁴⁰, passenger related disputes arose as the plaintiff was banned from flying with numerous airlines on the basis of unacceptable behavior with other airlines and the DGCA. The ban was contended as being a direct violation of the principles of natural justice as no formal complaint was made by the flight commander, who has the official authority to grant permission for proceedings under the DGCA's CAR, Civil Aviation Requirements. Criticism was also directed to the failure of constituting an internal committee required for the purposes mentioned in the suit. The need for specialized arbitral tribunals is evident in such cases. Internal airline procedures and litigation processes may handle such disputes effectively to a considerable extent but, arbitration provides for a forum where both the parties consisting of the airline and the passenger would be under the scrutiny of a neutral arbitrator with higher technical and legal expertise for the same matter. Regulatory and

³⁸ Civil Appeal No. 4767 of 2006, SC.

³⁹ The Air Corporations (Transfer of Undertakings and Repeal) Act, 1944 (Act No. 13 of 1944).

⁴⁰ W.P.(C) 2052/2020 & CM 7208/2020.

contractual claims can both be decided in a manner more equitable and transparent.

The most recent instance that could be cited in this regard, would be the litigation process related to the Air India Boeing Case. The tragic crash of the flight named AI171, the London-bound Boeing 787 Dreamliner killed 242 people, as the estimates suggest. This led to an inevitable PIL in the Supreme Court for an independent safety audit of the plane's operations and maintenance procedures. The petition was dismissed and a sector specific review was suggested. The victims' families adopted the trend of seeking justice in jurisdictions where higher compensation and expertise are available. For the Indian situation, pilot unions have been involved, The Airline Pilots' Association of India (ALPA- India)⁴¹ to be particular has sought legal action to participate in the investigation panel by a demand for more transparency from various agencies. There is a clear intersection of aviation law, multi-jurisdictional litigation and regulatory oversight with an unshakeable bond with the violated rights of the victims. For further commercial and contractual claims, arbitration serves as the proper forum, if compensation settlements or cross-border contractual issues are involved. Those specialized in aviation law, aircraft technicalities, national legislations and international regulations can provide for precise and informed adjudication. If speedy resolution is the demand for the families of the victims, then arbitration's procedural efficiency in managing impartiality and enforcing awards fits right in the frame.

Sector specific aviation arbitration in India, therefore, represents exactly what a proper resolution of this dispute requires, with providing natural justice, equity and mental welfare to the families of the victims, restoring their faith in law and justice ahead.

CONCLUSION

After a thorough analysis of the international conventions, national legislations, regulatory mechanisms, judicial pronouncement and recent amendments, it would be right to conclude that sector specific arbitration mechanisms are the need of the hour. Specialized tribunals along with specific enforcement mechanisms and rules allow for higher credibility and reliability on arbitration in aviation matters. From disputes claimed under the rules made for one of the oldest forums as the Hague Court of Arbitration for Aviation to those arising under the newly constituted specialized ones, arbitration has been and continues to be the optimal choice of

⁴¹ The Airline Pilots' Association of India represents Indian pilots at the International Federation of Air Line Pilots' Associations (IFALPA).

dispute resolution for the parties. Commercial disputes, financing disputes and passenger related claims can be effectively settled through the level of expertise that the chosen arbitrators possess for aviation disputes. Speedy resolution and enforcement guarantee increase the chances of almost all such disputes that require sector specific mechanisms to be resolved through arbitration, and the aviation sector is no exception.