

Kerala HC Arrests Ship Over ₹9,531 Crore Oil Spill Claim Under Admiralty Law

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Kerala Ship Oil Spill Case

Kerala Ship Oil Spill Case Latest News

- The Kerala High Court has **conditionally arrested** the Liberian container ship MSC Akiteta II, docked at Vizhinjam port, following an admiralty suit filed by the Kerala government.
- The action seeks Rs **9,531 crore in compensation for environmental damage** caused by the sinking of MSC Elsa III on May 25 near Alappuzha.
- The sunken vessel, also linked to the Mediterranean Shipping Company, reportedly carried over 600 containers with hazardous materials, including plastic pellets and diesel, polluting Kerala's marine ecosystem.

Law Governing Maritime Disputes in India

- The **Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017** governs maritime disputes in India.
- It allows admiralty suits for claims involving ship damage, ownership, wage disputes, environmental harm, and loss of life.
- This Act replaced outdated colonial laws — the Admiralty Court Act, 1861 and the Colonial Courts of Admiralty Act, 1890.
- While earlier jurisdiction was limited to the High Courts of Bombay, Calcutta, and Madras, the 2017 law extends it to the High Courts of **Kerala, Karnataka, Odisha, Telangana, and Andhra Pradesh**.
- These courts have **authority over maritime disputes within 12 nautical miles** from the coast, including the seabed, subsoil, and airspace above.

Legal Provisions for Environmental Damage Claims from Ships

- Under **Section 4 of the Admiralty Act, 2017**, High Courts can hear maritime claims for environmental damage caused by vessels, including claims for compensation and damage removal measures.
- In addition to the Admiralty Act:
 - The **Merchant Shipping Act, 1958** holds shipowners liable for oil pollution due to leaks.
 - The **Environment Protection Act, 1986** empowers authorities to act against environmental polluters.
 - The **National Green Tribunal (NGT)** also addresses such claims.
 - In 2016, it ordered a Panama-based firm to pay ₹100 crore for an oil spill after M V Rak sank near Mumbai.

Kerala's Admiralty Suit and Ship Arrest

- The **Kerala government filed an admiralty suit** seeking the arrest of the vessel **MSC Akiteta II** to secure a compensation claim of **₹9,531 crore** over environmental and economic damages caused by the sinking of MSC Elsa III.
- Allegations of Corporate Structuring to Evade Claims
 - The state alleged that MSC Elsa 3 and MSC Akiteta II are “sister vessels” under the Mediterranean Shipping Company (MSC), despite being registered under different shell companies, all operating from the same Geneva address.
 - This corporate setup, it claimed, is a fraudulent device to frustrate genuine maritime claims.

Court Order and Justification

- The Kerala High Court ordered the detention of MSC Akiteta II until the vessel's owners either deposit the compensation amount or furnish adequate security.
- The court found merit in Kerala's maritime claims, which include oil and cargo pollution.

Breakdown of Compensation Sought

- **₹8,626.12 crore:** Environmental damage due to the shipwreck.

- **₹378.48 crore:** Cost of remediation and pollution control.
- **₹526.51 crore:** Economic loss suffered by Kerala's fishermen.
- The compensation was calculated as per **Central Pollution Control Board (CPCB) guidelines**, according to the government's plaint.

Legal Grounds and Representation

- Citing Section 5 of the Admiralty Act, 2017, the petition argued the High Court's authority to arrest the ship even if MSC is a demise charterer.
 - A demise charterer, also known as a bareboat charterer, is a party that leases a vessel from its owner and assumes full control and responsibility for its operation, including crew, maintenance, and insurance, for a specific period.
 - Effectively, the demise charterer becomes the "owner for the time being," though the legal title remains with the original owner.

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