



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CLASS ACTION LAWSUITS: EMPOWERING CONSUMERS AND ENSURING CORPORATE RESPONSIBILITY

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ABSTRACT

This research paper is based on the concept of a class action suit, a powerful and dual mechanism that helps protect both consumers and ensures corporate responsibility. Class action suit allows a set or group of people to obtain legal remedies against business misconduct while fostering safety and transparency for customers. This research paper investigates the worldwide progression of the Class action procedure via an analysis of comparison, showing how beneficial they are in various legal regimes. This research paper also sheds light on various case studies and legislative consequences to demonstrate how class actions influence corporations and safeguard consumers' interests. This study further addresses the obstacles and critiques of class action suits including procedural complications and the possibility of misuse. This study also reveals insights into the socio-legal nature of class action suits through the intersection of legal perspective, concrete facts, and empirical research. Furthermore, it emphasizes how vital they are in improving the availability and fairness of justice, balancing the power distribution, and encouraging corporate governance reformations.

KEYWORDS- corporate governance, customers, transparency, business misconduct, legal remedies, class action.

INTRODUCTION

The class action suit is a kind of exacerbated litigation that plays a crucial role in the legal system to allow people who have experienced identical sufferings to seek relief against a common defendant. The history of class action suits states that at first, it evolved in the United States of America and then expanded significantly to other countries. By virtue of time, it became an indispensable mechanism for upholding rights and promoting justice, especially in those situations where the single claim of an individual may be insufficient or too small to sustain individual legal proceedings.

A class action suit is defined by its capacity to combine several individual claims into one single coherent litigation. It boosts the strength of the affected group of people and offers them a practical remedy to deal with that significant injury or harm. There are several benefits of this type of suit which include, improvement of court efficiency by combining cases, it also ensures the fair and equitable distribution of court fees among all the plaintiffs, etc. Thus, class action lawsuits serve a significant purpose in discouraging improper behaviour by companies or other huge organizations by holding them accountable for their work.

Despite of different advantages, these class action lawsuits also entail a lot of hurdles and complexities. Furthermore, the balance between the interests of individuals and class action members is sometimes difficult which demands careful consideration and thought to guarantee fair representation and consequences.

This research paper examines the intricate details of class action lawsuits, including their evolution over time, operational features, impact on the judicial system and societal standards, etc. Furthermore, by reviewing prominent case studies and the latest developments in law, this research strives to give a complete overview of both the effectiveness and difficulties associated with class action lawsuits in today's world. The main goal of this research paper is to shed light on the importance of class action litigation in preserving justice and exploring potential areas for reform to improve their effectiveness in the future.

HISTORICAL EVOLUTION-

The origin of collective lawsuits can be traced back to the medieval period when there was the presence of Anglo-Saxon and Norse customs throughout the Middle Ages. These initial stages of collective lawsuits tended to be community-driven, and groups that were involved in this were filing complaints together against the perpetrator. The modernized class action lawsuits first started in the United States in 1842 with the establishment of Equity Rule 48, allowing permitted groups to file lawsuits together. This initiation made a dramatic change from Individual to collective group litigation, which facilitates individuals to file the case together, having the same grievances, to access justice easily. In the year 1966, the amendment of Rule 23 of the **Federal Rules of Civil Procedure in the United States** was a watershed moment in the History of class action litigation. This modification standardized the framework and procedure for class action litigation, which made it easier to understand and regulate. This period is considered the introduction of the modern class action era.

In the landmark case of *Amchem Products, Inc. vs Windsor*,¹ The Supreme Court of the United States discussed the criticality of recognizing a specific class in a case where mass tort is involved, it asbestos exposure. This particular case underscored the requirement for compliance and the need for Rule 23 of the **Federal Rules of Civil Procedure in the United States**, especially raising concerns about the predominance of the legal or factual issues and the proper adequate representation of the same. While deciding the case, the Court also pronounced that the classes who does settlements. They must meet the same complex standards as the litigation classes.

This Decision laid down a foundational stone for the development of the modern class action jurisprudence system in the United States while putting stress upon the procedural fairness and safeguarding the absent class members.

Even though class action initially emerged as an American phenomenon, it was later expanded to other European countries quickly. These countries have tailored the class action procedure as per their legal system by allowing a variety of concerns on this. Slowly, the principle of class action started to be recognized in the Indian law system and integrated into it; however, it's constantly changing due to Societal change. After the reflection of this legal tool throughout the world, Indian law currently provides the principle of class action lawsuits only in the field of consumer protection and shareholder disputes.

The Companies Act 2013 made a significant mark in the history of Indian law by introducing the legal mechanism of class action suits into the Indian Corporate system. This statute empowers the shareholders and depositors to raise their voices against corporate fraud or misconduct by using class action lawsuits.

Class action lawsuits have also been incorporated into the Consumer protection system under Indian law. The Consumer Protection Act 2019 even boosts the strength of consumers by allowing them to seek remedies collectively by using class action lawsuits.

Recently, this class action tool has gained much popularity in India. Indian company law tribunals, during the hearing of the cases, have made a significant mark regarding this class

¹ 521 U.S. 591 (1997)

action tool. Union of India, while filing high-profile cases on behalf of the consumers, has used this tool by addressing its potential impact for resolving large-scale grievances.

In the case of **Lok Prahari vs Union of India**² The Supreme Court of India has dealt with a Public Interest Litigation in which the allocation of public land to political parties was challenged.

Although this case is not a classic yet the best example of a Class action suit in India, However the observation made by the Court while pronouncing the judgement contributed significantly to the discussion of Representatives of the litigation sector in India.

This judgment sheds light on the significance of allowing representative claims where individual litigations will not be practical or effective, as there is of wide public interest. Generally, this is referred to its elucidations of the concept of representative standing more often, which is a core element in both PILs and Class Action Suits. It highlights the willingness of the judiciary to interpret the standing rules in a liberal way when the particular matter is affecting a broad category of society.

MEANING AND DEFINITION-

The Class action suit is a mechanism of the modern law system in which an assembly of people having a comparatively the same issue against one particular defendant files a legal suit as a whole. In this litigation, before proceeding with the action, the court must be satisfied that the individuals who have filed the case as a whole have similar legal or factual issues against the defendant. This tool allows individuals to seek redress cost-effectively and efficiently. By providing this collaborative strength, this tool helps to increase access to the legal system and negotiates the strength of the larger companies. The main purpose of a class action lawsuit is to resolve the claims of a group of people who are having identical harm against one defendant, rather than having it in separate individual lawsuits.

According to Justice William Brennan, “A class action is a procedural device that enables one or more plaintiffs to file and prosecute a lawsuit on behalf of a larger group, or 'class.’”

² (2018) 4 SCC 699

PROVISIONS OF CLASS ACTION SUIT UNDER INDIAN LAWS-

The class action lawsuit has emerged as an essential legal tool to provide a mechanism to seek justice more effectively for a group of people who have suffered similar harm from one defendant. In India, various statutes govern the provisions of this legal tool. Those are specific legislations like the Companies Act, the Consumer Protection Act, the Environmental Protection Act, and The Security Law which is administered by SEBI, etc. The following analysis will shed light on these provisions and help to understand the framework clearly.

Companies Act, 2013- The provision for class action lawsuits has been mentioned under section 245 of The Companies Act, 2013. Under this section, the law empowers certain members and depositors to initiate a class action suit against the company, its director, or auditor for any kind of fraudulent activity or illegal act. Under this section, the National Company Law Tribunal is empowered to hear and decide the matter of a class action suit. After the hearing, the court may ask the company to pay the compensation, or it may be directed to perform a certain activity regarding the same.

For example, in the case of *Bank of Baroda vs Aban Offshore Ltd.*,³ The NCLAT cleared that the shareholders with cumulative redeemable preference also fall in the categories of Members as per the definition provided in section 2 (55) of the Companies Act, 2013, read with section 88 of the same. Therefore, they are eligible to file a case as a Class action Suit under section 245 (1) of the Companies Act, 2013.

Consumer Protection Act, 2019-Section 12 of this statute allows a Consumer welfare association or any group of people to initiate a class action lawsuit on behalf of a large number of consumers against the manufacturer or Trader. As per this statute, a class action lawsuit can be put forward for any kind of unlawful or exclusionary commercial conduct by the defendant. For this, the Consumer Dispute Redressal Commission is empowered with the power to entertain and adjudicate class action lawsuits.

Environment (Protection) Act, 1986- Section 19 of this act empowers individuals or organizations to file a class action lawsuit regarding pollution or environmental damage. For filing such a class action suit, they have to approach the National Green Tribunal. This section

³ Comp. App. (AT) No. 35 of 2019

also involves pursuing compensation for the same, environmental reparation, prevention of any continuance of environmental harm, etc.

Securities and Exchange Board of India (SEBI) Act, 1992- The rules set forth by SEBI empower the investors to initiate a class action suit against any listed company for any kind of report that is misleading or does not disclose the details of the company's financial statement. Any class action suit filed under the SEBI Act will be heard and decided by the Securities Appellate Tribunal (SAT).⁴

ELIGIBILITY FOR FILING A CLASS ACTION SUIT UNDER INDIAN LAWS:

Class action suits under Indian law have been defined in various statutes. Eligibility for filing the same also varies. Different statutes provide different procedures and basic standards for initiating such suits. The following are the details about those statutes;

For initiating a class action suit under the Companies Act, only the shareholders or depositors of the company are eligible to do so. The plaintiffs must have a minimum prescribed shareholding or deposit amount to initiate that suit.

Similarly, for filing a class action suit under the Consumer Protection Act, the suit must have been initiated by the consumer association or group of consumers. For initiating, the consumer association must be registered and should have a record of protecting the interest of the consumers. In the case of the group of consumers, the group should be of those consumers who were affected by the same unfair trade practice conducted by the company.

Under the Environmental Protection Act 1989, any person, or group of persons can approach to National Green Tribunal to file a class action suit. For initiating the procedure, the plaintiff must satisfy the court that they have suffered environmental damage or like to suffer the same. That particular class must be defined based on geographical region or the nature of the environmental harm it will cause.

Another statute, SEBI is the security regulation, that empowers the investors either directly or through the investors association to file a class action suit. Still, there is a condition that the

⁴ Class Action Suits under the Companies Act 2013, <https://www.taxmann.com/post/blog/all-about-class-action-suits-under-the-companies-act-2013-section-245-and-246>.

group that is filing for a class action lawsuit should be comprised of those people who have been affected by the same misleading statement or non-disclosures.

Although various statutes provide rules and standards for initiating class action suits in India the Companies Act 2013 is considered as the significant one regarding this matter. The procedure of filing a class action suit has been given under section 245 of The Companies Act, 2013. At first, who can file a class action suit under this provision;

○ MEMBERS

In a company, which have a share capital, its members are eligible to file for a class action lawsuit. For initiating the lawsuit there must be 100 members of the company forming a group, or the number of members filing must not be less than 10% of the total number of members of the company.

Any member of members separately or collectively owning at least 10% of the company's issued share capital can file for a class action lawsuit.

For accessing this facility, it is provided in the statute itself that the applicant must have paid all the calls and other amounts that are owned by him.

In the case of a company that does not have a share capital, member or members of this company can file for a class action suit but the number should not be less than 1/5th of the total members of the company.

○ DEPOSITORS

Groups for filing a class action lawsuit by depositors, the number of depositors must be of 100 or 10% of the total depositors of the company.

Any depositor or depositors for filling class action suit need to hold not less than 10% of the company's total outstanding value of deposits.

Purpose of this section-

- It enables shareholders and depositors by suggesting a solution to the significant expenses and administrative obstacles associated with prosecuting personal claims.
- It functions as a protection against repressive management strategies or deceptive conduct by the organization's management.
- It contends that directors, auditors, and various other professionals are responsible for acts and choices that undermine the best interests of stakeholders.

- The clause protects shareholders and depositors in situations wherein activities are damaging to their best interests or the business's functioning.
- The possibility of joint lawsuits deters corporations and executives from participating in misbehavior or inefficiency.
- By allowing for collaborative actions, it fosters improved corporate management and guarantees that businesses follow legal requirements.

In the case of *Nivedita Sharma vs Cellular Operators Association of India*⁵ The Supreme Court of India clarified the difference between the class action suit and the PIL by offering significant jurisprudence on the same. The court stated, PILs are used while addressing the broad public concerns, while the Class Action Suits require a commonality of loss that one specific group has suffered. Thus, this decision serves as a milestone and a crucial point used as a reference while clarifying the boundaries of procedural laws and helping people to understand the concept of representation under the litigation, specifically under Order 1 Rule 8 of CPC and Section 245 of the Companies Act, 2013 while operates in a complete separate way from PILs which are mentioned under Article 32 or 226 of the Constitution of India.

TYPES OF CLASS ACTION SUIT UNDER INDIAN LAWS:

In Indian law, class actions enable a community of people with comparable problems to file for legal relief together, therefore improving the availability of righteousness. The aforementioned proceedings, subject to statutes such as the Companies Act of 2013, the Consumer Protection Act of 2019, and several others, address concerns relating to corporate management, rights of consumers, preserving the environment, and various other areas, fostering transparency and protecting the general interest. Class action suits can be categorized into different types. They are as follows-

I. Corporate Class Action Suit:

It is defined under section 245 of the Companies Act, 2013, and the purpose of this section is to safeguard the interests of shareholders and depositors in the organization. This provision restricts the organization from acting beyond its Memorandum, and it can be filed against the directors, auditors, or any other professionals of the company.

II. Consumer Class Action Suit:

It is defined under the Consumer Protection Act, 2019, with the purpose of protecting

⁵ (2011) 14 SCC 337

the rights and interests of consumers against deceitful goods and services. This type of CAS (Class Action Suit) can be filed against the Manufacturer, service providers, and sellers who are engaged in unfair trade and practices.

III. Environmental Class Action Suit:

This type of Class Action Suit is Specifically governed under the statute of the National Green Tribunal Act, 2010 to protect the interest and health of the general public from harmful and hazardous activities. This can be filed against anyone who is doing such activity including government authorities as well. This type of CAS is generally filed by NGOs, Groups of people who are victims of those hazardous activities, or public-spirited persons.

IV. Labour or Employment Class Action suit:

This type of CAS is generally filed against the misconduct of Employers regarding wages, and every other kind of problem faced by the employees in the workplace specifically against unfair labour practices, if done by the employers. This is governed under the Industrial Relation Code, 2020, and provides relief for the same.

V. Securities Class Action Suit:

This type of CAS is filed by a group of investors with similar grievances under SEBI (Securities Exchange Board of India) under the SEBI Act, 1992. It is generally filed against Listed companies and market intermediaries. The main motto of this CAS is to protect the investors from Fraud and market manipulations which are done to gain illegal profit.

ADVANTAGES AND DISADVANTAGES OF CLASS ACTION SUIT-

Everything has its two sides. One is positive and the other one is negative. Similarly, the provision of a Class Action Suit has its positive and negative aspects. They are as follows:

- ❖ The class action suit is a valuable tool that merges all the complaints having the same background from various people into one, it saves time and resources for both the court and parties involved. This procedure helps to reduce the cost of litigation including all the expenses for the litigation proceeding. It also helps in the speedy disposal of the suit without being delayed which is generally associated with separate suits in the same case.

- ❖ Generally, small claims are not entitled by the public due to the difference between the amount for litigating and the compensation received. Class action suit allows the parties having the same issues to come together and file a case collectively.
- ❖ As the class action suit is filed by a number of people together, the defendant faces higher potential damage for defending the same. However, most of the time it leads to the settlement option as per the interest of the parties.
- ❖ This suit helps in establishing consistency in the legal proceedings and the result of the suit has a broader impact which shows that justice has been served uniformly and that fairness in the system is maintained.

DISADVANTAGES-

- ❖ There are many Disadvantages of this Class action suit, but the major drawback of this suit is, the limited control of plaintiffs. This means that strategic choices during the case are typically made by those plaintiffs who are leading the suit or by their attorneys. So, the Individual plaintiffs may feel that their concerns are not being addressed.
- ❖ Although the class action suit allows the individual to seek justice collectively, the compensation amount for individual plaintiffs is minimal. As there are so many people involved in the case, the damage amount is distributed among everyone, and each of them receives a small portion of compensation. For some of them, the compensation amount is not worth their efforts and may cost more than the amount spent on litigation.
- ❖ This class action suit is beneficial in many ways, but sometimes it demonstrates the complexity of this suit both substantially and procedurally. The intricacies involved in this suit regarding the jurisdiction, parties involved, management of the same, etc., lead to a long-term legal battle that discourages the general public from relying on such types of suits.

CONCLUSION-

The concept of a Class Action Suit acts as a vital tool in this modern legal system to promote the efficiency of the judicial system, to ensure collective redressal, and to enhance access to justice by those individuals who cannot litigate or otherwise. According to the Indian law, although the class action suit via section 245 of the Companies Act, 2013, made a shift but the practical implementation of it remains limited due to the ambiguities in the procedural sector, due to a lack of awareness among the general public, and underutilization of the judiciary

sector. The true potential of a class action litigation will be realized only by doing a comparative analysis with the jurisdictions of other countries like the United States and the United Kingdom, which highlights the requirement for a robust procedural framework, a certificate mechanism that is efficient enough, and a proactive judiciary system.

Furthermore, various judicial precedents have gradually shaped the class action suit in India. However, with increasing complexities of corporate structures, consumer dynamics, and public interests, this class action suit must develop as a powerful tool not just for redressal in the legal field but also for reinforcing accountability in the corporate sector and to hold the trust of the general public.

Moreover, by strengthening this mechanism, it will significantly contribute to the growth of substantive justice in a swift way while transforming the socio-economic landscape as well.

