

# Class action suit

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## In news

Incidents such as the recent ONGC barge disaster underline the absence of effective class action suits in India.

## What is a class action suit?

- It is a legal action or claim that allows one or many plaintiffs to file and appear for a group of people with similar interests. Such a group forms a “class”.
- A class action, also known as a class-action lawsuit, class suit, or representative action, is a type of lawsuit where one of the parties is a group of people who are represented collectively by a member or members of that group.

## More about class action suits

- A class action suit derives from representative litigation, to ensure justice to the ordinary individual against a powerful adversary.
- Class action suits have a history dating back to the 18th century.
- These were formally incorporated into law in the United States in 1938 under the Federal Rules of Civil Procedure.
- Over the years, class action has become so successful at curbing negligence, that it is now a part of US corporate and consumer laws, environmental litigation, etc.
- The ubiquity of representative litigation in the US has given rise to a class of lawyers called “**ambulance chasers**”, those who solicit for clients at an accident or disaster site, largely for personal injury cases.

## **Examples of class action suit in India**

- Personal injury suits, or class action suits legal options are weak in India, and not considered a worthwhile exercise. Following are some of the examples:

### **Bhopal gas leak case:**

- The most actionable suit was the Bhopal gas leak from the Union Carbide factory in 1984, where more than 3,700 people died.
- Three class action suits were filed in the US, which dismissed all claims for environmental clean-up, personal injuries, and medical compensation.
- In India, the central government filed a case on behalf of the persons who had been injured as a result of the gas leak.
- Eventually, Union Carbide was asked to pay \$470 million in compensation, one-seventh of the claim asked for.

### **Satyam Computers scandal:**

- During the 2009 Satyam Computers scandal, there was fraud and misrepresentation to the stock exchanges, regulator, and investors.
- A class action suit was filed, but because India didn't have an appropriate law, 300,000 Indian investors were deprived of damages while Satyam's US investors were made whole.

### **Nestle case:**

- The Government of India filed a case on behalf of consumers in 2015 in the National Consumer Disputes Redressal Commission against Nestle after the Food Safety and Standards Authority of India found higher than permissible levels of lead in instant noodles.

## **Legal provision for class action suit in India**

India now has legal provisions for filing class action suits, but under four laws:

### **Under Civil Procedure Code:**

- Order 1 Rule 8 of the Civil Procedure Code refers to representative suits, which is the closest to a classic class action suit in a civil context in India.
- It does not cover criminal proceedings.

### **Companies Act:**

- Section 245 of the Companies Act allows members or depositors of a company to initiate proceedings against the directors of the company in specific instances.
- There are threshold limits, requiring a minimum number of people or holders of issued share capital before such a suit can proceed.
- This type of suit is filed in the National Company Law Tribunal. Currently, no class action matters have been filed under this provision.

### **The Competition Act under Section 53(N)**

- It allows a group of aggrieved persons to appear **at the National Company Law Appellate Tribunal** in issues of anti-competitive practices.

### **Consumer Protection Act:**

- The Supreme Court has held that in certain complaints under the Consumer Protection Act, they can be considered as class action suits. (Rameshwar Prasad Shrivastava and Ors v Dwarkadhis Project Pvt Ltd and Ors)
- The Consumer Protection Bill, 2018 – which proposes establishment of a Central Consumer Protection Authority empowered to file class action suits on behalf of consumers.

## **Hurdles for development of a mature body of class action suits in India**

There are several hurdles, which are not necessarily regulatory in nature:

- This tort law has not developed sufficiently in India for a number of reasons, primarily due to the high cost and time-consuming nature of litigation, especially in cases concerning the law of torts.
- As civil breaches, litigants find it too expensive and complicated, and therefore do not pursue such cases.
- The rules of the Bar Council of India do not allow lawyers to charge contingency fees, i.e., a percentage of the damages claimants receive if they win a case.
- This disincentivises lawyers from appearing in time-consuming cases that class action suits inevitably are.

## **Significance of class action suit in India**

They are necessary if India is to improve its ease of doing business rankings, especially in disaster prevention and risk of life.

## **What is a Barge?**

A barge is a type of vessel which is mainly used for the purpose of carrying cargo. However, the most important part about barges is the fact that they are not independent boats or vessels