

Tortious Liability for Sports Injury: Exploring A Possible Future in India Through Arbitration

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Abstract

Sports is a global phenomenon, that not only generates livelihood for the athletes but larger events contribute significantly towards the economy as well. For better governance of this phenomenon, up to date legal structure is vital to provide fair chances to sportsmen, ensure no discrimination on basis of race, religion or color and discourage prejudicial exploitation of the same. The researchers in this article have tried to explore the possibility of applying liability through tort law upon the wrongdoer for injuries incurred during sports. The authors believe tort is an arena where development is never ceased and hence since its evolution it has provided the experts with a much wider area for interpretation and application. This article emphasizes upon various branches of tort law and construes the same in the light of different sport injuries caused to sportsman, audiences and other stakeholders associated with it. This article also examines the emerging sports jurisprudence in India and highlights the shortcomings present in the legal structure with regard to administration of sports law and puts forward Arbitration mechanisms to cultivate and improve governance of sports in India. Sports Arbitration is still a comparatively fresh perception under Indian jurisprudence, but the author believes that the same can be helpful to readdress the victims rapidly and through these precautionary mechanisms can be adopted before it's too late.

Keywords: *Arbitration Law, Law of Torts, Negligence, Sports Injury, Sports Law.*

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1. INTRODUCTION

“Games might be and are the serious business of life to many people. It would be extraordinary to say that people could not recover from injuries sustained in the business of life, whether that was football, or motor racing, or any other of those pursuits which are instinctively classed as games but which everyone knew quite well to be serious business transactions for the persons engaged therein.”

- *Cleghorn v Oldham*(1927)

Sport is considered as a worldwide sensation. It is a popular phenomenon, regardless of whether as a entertaining pursuit, serious playing at novice levels, the world class for the most part proficient level or as far as spectating, it accept enormous social criticalness. 3% of world trade is earned from sports activities across the globe. Hence, it needs legal framework to secure transactions and rights associated with the same. The insufficiency or vacuity present in the current legal framework, in meeting the difficulties presented by complicated circumstances, prompts the need to have more advanced and up to date laws for proper governance of sports related activities. In the current scenario, sports are not limited to playgrounds and fields, but has reached every household through various broadcasting and online mediums. This has now led to different fraudulent acts, scandals and wrongdoings. The vigilant administrative body is required to oversee and deal with these issues appropriately so that sports always stay as one of the vital act of entertainment and can also lead to sufficient revenue generation.¹

Sports law makes sure that the sportsmen are not in any way deprived and gets their chances to participate in every field of their interest and are not discriminated on any grounds with one another. Every sportsman must get an appropriate chance to put forward their talent and abilities to grow in their respective fields and pertinent laws shall be applied to guarantee the same. Just like how workers and employees get harmed during work, players also suffer

¹C. Gearty, “Tort: Liability for Injuries Incurred during Sports and Pastimes”, 44(3) *The Cambridge Law Journal* 371-373 (1985).

wounds during play. In such situations, players are qualified for healthcare amenities and assistance by their respective employers as well. They additionally reserve a right to continue work after significant health improvement. However, if, a player suffers serious and permanent injuries, the person can also claim for necessary damages.

On a fundamental level, sports law can be categorized into two zones – administrative concerns and business/monetary issues. Administrative issues are centered upon the standard regulations of the game and the violations that may happen regarding the same. The opposite side of sports law is considerably more to do with the business idea associated with game. Competitor and sportsman contracts are a common concern yet sports law is intensely associated with stadium improvement, monetary issues, sponsorship arrangements and broadcasting rights.² Obviously, there are components that don't fit conveniently into either classification. Negligent acts committed during organizing sport events along with harm done to spectators or third party due to such carelessness has emerged as one of the growing concerns in Sports law. Involvement of *mala fide* intention upon such wrongs may even give rise to criminal liabilities in certain situations. Hence, sports law is wide-running and continually traverses into different zones of law.

2. SPORTS INJURIES UNDER LAW OF TORTS

The term "Tort" has originated from the Latin expression "*tortum*", which means "to twist". It implies and incorporates those behaviors which are not straight or legitimate, rather wrong or unlawful. Law of Tort is therefore that part of law which comprises of different "torts" or improper acts whereby the transgressor disregards legitimate right which are vested upon others. The Tort law puts an obligation to consider and respects the rights of the other members of the society and public at large.

Numerous games require difficult movement that might get strenuous for the body. Joints, muscles, bones and the skin are typically the initial segments of the athlete that are harmed. In order to increase the scores players may often fall or face severe injuries and sufferings. Much Competition", 7 *University of Miami Entertainment & Sports Law Review* 191 (1990).

of the time, the injuries are fixed with therapy or treatment. Yet, there are a few occurrences that can't be fixed even with long haul care. These conditions may require more clinical expenses than the typical injury on the playing field. Wounds and harms occurring because of purposeful torts, for example, battery or assault, similarly are entitled for damages and compensation.³

In certain situations, educational institutions are often responsible for harms and injuries caused to athletes. In case of that of an employee of the school/colleges, like the coach, trainer, or referee, miscarries his duties and do not properly supervise an apprentice and the player/student undergoes an injury as a result of faulty supervision, the school may be held liable for its employee's negligent act.⁴ Generally, coaches, teachers, and referees should definitely undertake reasonable care to avert foreseeable injuries.

3. APPLICATION OF TORTIOUS LIABILITY TO DIFFERENT ARENAS OF SPORTS LITIGATION

In sport, not only an assailant can be sued but sportsman, club-owners, administrative entities and referees can be held legally liable. Along with those tortious liabilities can also be protracted towards the speculators, audiences and other third parties as well. Let us discuss these areas in details.

3.1 Tortious Liability for Injury Caused to a Spectator/Audience Present in a Stadium

Watching a sporting event or concert at an opening, stadium or race track is expected to be fun and secured.⁵ Wounds may be common on the trajectory or field but however, regrettably visitors to public settings can unexpectedly turn out to be guiltless victims to unscrupulous behavior or negligent acts. Injuries caused at stadiums and sports locations tend to fall into various categories such as:

³ Jay A. Urban, "Sports Torts in Wisconsin", 8 *Marq. Sports Law Journal* 365 (1998).

⁴ Russ VerSteeg, "Consent in Sports & Recreational Activities: Using Contract Law Terminology to Clarify Tort Principles", 12 *DePaul Journal of Sports Law & Contemporary Problems* 1 (2016).

⁵ Daniel E. Lazaroff, "Torts & Sports: Participant Liability to Co-participants for Injuries Sustained During

- a) **Slip and Falls at a Stadium or Sports Facility:** Wet floors or careless objects lying on floors may give rise to the issue of slipping. These threats could arise from mopping, climate, spilled drinks, plunged food wrappers and multiple similar reasons. The proprietors and maintenance establishments are entrusted with the duty to ensure preventive steps to avoid these hazards.
- b) **Thrown or dropped objects** – Any item thrown or released from a balcony can be the cause for a serious injury to various innocent parties present at the event.
- c) **Inappropriate construction and maintenance** –Due to improper or incomplete construction, what if a railing falls on the audience? A ramp constructed at a faulty angle can be perilous as well.⁶
- d) **Crowd trampling** – In order to check upon this issue, it is important to understand whether the venue was over populated than its usual and prescribed capacity.

Occupants of sporting venues are obliged towards a duty of care towards all those who are present in the stadium and undertake necessary precautionary measures. Participants also have a duty to care towards the spectators in case of foreseeable injury from their end. Through various judicial pronouncements we have observed that failure to take reasonable care towards the people has led to cause tortious liabilities.

For instance, the judgment passed in the case of *Watson v British Boxing Board of Control (BBBC)*⁷ enforced “liability on the governing body of BBBC as they have failed to ensure necessary medical facility at the ringside of a boxing fight and as an outcome of the delay to provide the appropriate medical care the claimant was somewhat physically and mentally disabled”⁸

Determining Liability

In order to be holding anyone responsible for any negligent act, the following conditions must be kept in mind:

⁶ *Id.*

⁷ *Watson v British Boxing Board of Control*, [2001] QB 1134.

⁸ *Id.*

- The proprietor of the location or an employee if have spilled, worn or torn spot, or other greasy or hazardous surface or item to be found on the ground or underfoot.
- The proprietor of the premises or an that of an employee was fully aware of the precarious surface but did nothing to stop such situation or occurrence.
- The proprietor of the premises or that of an employee should have known of the dangerous surface because a “reasonable person taking care of the property would have learned and removed or fixed it”.⁹

In the case of *Mantovani v. Yale University*¹⁰, the Connecticut Superior Court on February 6, 2008, maintained a jury decision for litigant Connecticut Baseball Inc. The offended party was harmed by a foul ball at a minor’s game. The stadium structure had outdoor tables with siting arrangements that confronted away from the playing field. Preceding preliminary, the court held that “general rule of negligence would apply on the grounds that the baseball rule applied distinctly to audiences in the stands”¹¹. The jury did not find it to be risky or in flawed conditions in the structure and hence no infringement by the defendant towards the plaintiff.

Plea of *Volenti non fit injuria*:

Along with the other issues, we might also consider relevant points such as, what are the various right available to a fan who is present to witness the event? Generally, on the backside of a ticket, few words are often mentioned which provides disclaimer with regard to legal liabilities and consequences of injuries that might be faced by the audience while watching the live match.

In various similar instances, the courts refer to the common law doctrine of *volenti non fit injuria* in these kinds of scenarios. This doctrine states that the plaintiffs were already aware of the risks that are involved in watching such sports closely and have voluntarily consented to the same. This consent, according to Lord Denning, can be implied or express. If the same

⁹*Slip and Fall Accidents: Proving Fault*, available at <https://www.nolo.com/legal-encyclopedia/slip-fall-accidents-proving-fault-29845.html> (last visited on June 26, 2021)

¹⁰*Mantovani v. Yale Univ.*, 2008 WL 544648.

¹⁵*Turner v. Mandalay Sports Entm't LLC*, 180 P.3d 1172 (Nev. 2008).

can be proved in the court of law, then the said charges can be released due to the application of this doctrine.

The application of this principle is well portrayed in the decision passed in the matter of *Lorino v. New Orleans Baseball & Amusement Co.*,¹² as here a viewer who voluntarily came to watch a match got injured by the batsman during the practice sessions from the "bleachers."¹³ The court defined bleachers as unshielded seating, which is located within the range of 158 feet. "*It is knowledge common to all that in these games hard balls are thrown and batted with great swiftness; that they are liable to be muffed or batted or thrown outside the lines of the diamond, and visitors standing in position that may be reached by such balls have voluntarily placed themselves there with knowledge of the situation, and may be held to assume the risk.*"¹⁴ The bench realized that the plaintiff had presumed the threat of associated with various stages of the game and agreed to join the same. Thus, the suit was dismissed.

Again, we can find that in the case of *Turner v. Mandalay Sports Entm't LLC*, (Nev. 2008)¹⁵ a viewer underwent grave wounds on her face when she was stomped by a ball while having food in the Beer Garden, which is a connected area associated with the Cashman Field. In this case the Nevada court stated that viewers are aware of the risks associated with the game, and after such knowledge this spectator had voluntarily chosen to not sit in the enclosed area. The Beer Garden is a risky spot compared to the other enclosed areas of the stadium and the same was known by everyone, hence the proprietor and his employees did not have a responsibility or liable to pay any compensation.

3.2 Tortious Liability for Injury Caused to a Sportsperson

Numerous games require arduous movement that might be exceptionally hard on the body and cause harm to the athlete's body. Often these injuries are so severe and require expensive treatments for recovery. Everybody who is out on the field has a duty of care towards others. The true spirit of sports lies where one's enthusiasm of winning shall not come in the way of

¹²*Lorino v. New Orleans Baseball & Amusement Co., Inc.*, 16 La.App. 95, 133 So. 408 (1931).

¹³*Id.*

¹⁴ *Id.*

safety of another player. Hence, in case of violation of these terms, law of torts can be made applicable. Tortious liability for injury caused to a sports person and the extent of such liability can be categorized under the following:

- a) Injury caused due to negligence of a Party;
 - b) Application of the principle of Vicarious Liability for the injury caused;
 - c) *Mala fide* and Deliberate intention to cause injury; and
 - d) Application of the test of Reasonable Foreseeability.
- a) Injury caused due to negligence of a party: The law of negligence which is commonly applied to sports torts is, *prima facie*, identical to that which determines is based on Lord Atkin's popular 'neighborhood test', as stated in the landmark judgment of *Donoghue v Stevenson*¹⁶. The notable three essentials which has to be proved to construct a negligence in this test- "*the defendant must owe to the claimant a duty to take reasonable care not to harm him, the defendant's play of such standard must have breached that duty and that foreseeable harm was the result of the breach of duty (causation).*"¹⁷
- Again, the case of *Condon v Basi*¹⁸, recognized and restated that the contestants in sports are obliged to have a duty towards every participants and should take reasonable care to ensure not to cause any harm or injury in the process towards them. In this case the defendant broke the leg of the plaintiff and injured him. The standard of care which should have been taken were missing from the end of the defendant and hence was held responsible in this case.
- b) Application of the principle of vicarious liability for the injury caused: The principle of vicarious liability says that the employers can be held responsible for the act done by their employees towards another person during the course of their employment. However, this doctrine is only applicable to professional players who are working under a contract with their respective clubs.

¹⁶ *Donoghue v. Stevenson*, [1932] A.C. 562.

¹⁷ *Id.*

¹⁸ *Condon v Basi*, [1985] 1 WLR 866.

As emphasized in *Gravil v Redruth Rugby Football Club Ltd*¹⁹, each case must be examined on its own facts in order to truly establish whether the tortious act is so closely connected with the employment that it would be fair to hold the employer vicariously liable.

In the case of *Ben Collett (Manchester United FC) v Gary Smith & Middlesbrough FC*²⁰, eighteen year old Collett was playing for Manchester United in a match against Middlesbrough FC. In the course of the game, he was tackled by the first defendant. The tackle was high and over the ball and, as a result, Collett sustained a fracture of the tibia and fibula of his right leg.

Collett pursued damages for injury, loss and damage caused by the negligence of Smith. Collett chose to pursue Middlesbrough FC (rather than Smith himself) arguing that they were liable for their employee's actions, given that he was connected to the club and acting in the course of his employment, as a professional footballer. In particular, Collett claimed for future loss of earnings as a result of not being able to pursue a successful career as a professional footballer and thereafter, as a football manager or coach. Middlesbrough FC admitted liability and it was for the Court to determine the final settlement figure.

- c) *Mala fide* and deliberate intention to cause injury: Individuals who participate in sports understand that there is an inherent danger in many of these activities that is a normal part of the game. This is particularly true for contact sports, such as hockey, rugby, football and soccer. However, when someone becomes injured by actions that are not deemed part of 'normal play' or within the expected risks of the game, then an injured person may be entitled to compensation from the party responsible for their injuries. One here has to understand the difference between injuries arising from inherent risk and those that are associated with reckless or malicious behavior.

¹⁹ *Gravil v Redruth Rugby Football Club Ltd.*, [2008] EWCA Civ 689.

²⁰ *Ben Collett (Manchester United FC) v Gary Smith & Middlesbrough FC*, [2009] EWCA Civ 583.

We can observe such deliberate acts in the case of *R v Davies*²¹. Here, in this case two football players bumped into each other and a free kick was given. As the two players included were taking situations for the free kick the respondent moved toward the other player and hit him in the face. Subsequently after the match, it was discovered that the plaintiff endured a cracked cheekbone. The court held this was an intense offense as there was no incitement with respect to the petitioner and the respondent purposely attacked him on the field. The broken cheekbone was considered as genuine injury and the wrongdoer was condemned to a half year detainment.

Basically, a player can be expected to take responsibility for wounds that outcome from actual contact if there was a conscious goal to harm or if the player's activity were outside the typical extent of play. Positively, each case is extraordinary and is surveyed on its own benefits accordingly the same are decided in the court of law

- d) Application of test of reasonable foreseeability: In the instance of *Woods v. Rogers* (1997)²² in the United Kingdom a golf player, the offended party, was harmed when he was hit by a ball shot by another golf player. The litigant asserted that he couldn't see the claimant party because of the structure of the course. The offended party's accomplice who was hitting the fairway with the offended party had waved him through, which the court concurred could be taken as a sign that the two golf players would have the option to shield themselves from being hit.

The decision taken in this case portrays how a few games have certain guidelines, which in themselves, teach observers and members of any dangers associated with it. For example, in golf where it is normal and acknowledged that members may incidentally hit the ball toward any path and observers and different members know about this hazard and can't guarantee carelessness for this situation.²³ Hence here such acts cannot be considered a justification or exceptions protection if reasonable moves were not made so as to forestall reasonably predictable mishaps or accidents.

²¹ *R v Davies*, [1991] Crim LR 70.

²² *Woods v. Rogers*, unreported SASC, S6467 (5 Dec. 1997).

²³ Erica K. Rosenthal, "Inside the Lines: Basing Negligence Liability in Sports for Safety-Based Rule Violations on the Level of Play", 72 *Fordham Law Review* 2631 (2004).

4. INDIA AND SPORTS JURISPRUDENCE

Sports has been perceived by the UN as a vital tool by which wellbeing, education along with development is progressed. India, being a nation of innumerable games, like cricket has been loved like a religion over every year. In any case, the circumstance has changed as of late and different games are presently being perceived just as sought after like never before previously. Thusly, India is currently facilitating different national and global games inside its region, and it is time that sufficient standards and rules are likewise set up to direct the equivalent. Further, India needs a solid arrangement of Sports Law since sports is often being manhandled commercial exploitation. It cannot, at this point simply be called as a relaxation action or wellspring of amusement because of the taking off rivalry and the immense measure of cash that is available just as being spent through sponsorships and establishments.

As an outcome of promotion and globalization, sports have become a commercial affair aimed towards economic exploitation. In any case, the difficulty emerges when individuals wind up abusing the action since it procures benefit and this occurs because of the absence of palatable laws to oversee the activities of the people involved. It must be considered that sports is a method of diversion and entertainment and numerous individuals livelihood depends on it. However, when there are no laws to direct an action, it becomes vulnerable and wrongs regarding famous occasions, to be specific, the Commonwealth Games, IPL, and Olympic Games Bidding and so on, has recently demonstrated the lacunae that exists in this field. Along these lines, it is essential for India to have a lawful framework which would be sensible enough to smooth out these exercises and appreciate the diligent efforts of the sportsman.

The Hon'ble Supreme Court, in *Zee Telefilms*²⁴ while explaining the nature of organization of sports in India had observed that:

"The Union of India or the respective Governments of the States instead and place of making legislation have thought it fit to allow the sports bodies to grow from its grass-root level by applying the reverse pyramid rules and by encouraging all associations and federations from

²⁴*Zee Telefilms Ltd. & Anr vs Union Of India &Ors.*, AIR 2005 SC 2677.

village level to national level. Whereas in each State there is a State federation, they must as of practice or precedent become a member of the Board (BCCI). State Federations and some other organizations essentially having regard to their respective nature of functions only are members of the Board. They include Association of Indian Universities, Railway Sports Control Board and Services Sports Control Board."²⁵

BCCI – Whether a State under Article 12?

The question that arose in the case of *Zee Telefilms* was that “whether a writ petition under Article 32 was maintainable against BCCI (the Board) by considering it to be State within the ambit of Article 12 of the Constitution?”²⁶ The decision taken by majority (3:2) was that BCCI did not qualify as State. The principles laid down in case of *Pradeep Kumar Biswas*²⁷ was upheld by majority and it was observed that:

“.....it would be clear that the facts established do not cumulatively show that the Board is financially, functionally or administratively dominated by or is under the control of the Government. Thus the little control that the Government may be said to have on the Board is not pervasive in nature. Such limited control is purely regulatory control and nothing more.”

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It was further held that since the monopoly status enjoyed by the Board was not State conferred, some of the public duties exercised by it would not qualify it to be called as 'State' for the purposes of Article 12.

However, the dissenting opinion treated the 'Board' to be 'State' and it was observed that: “We, therefore, are of the opinion that law requires to be expanded in this field and it must be held that the Board answers the description of "Other Authorities" as contained in Article 12 of the Constitution of India and satisfies the requisite legal tests, as noticed hereinbefore. It would, therefore, be a State”.²⁹

²⁵ *Id.* Para 272.

²⁶ *Id.*

²⁷ *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*, (2002) 5 SCC 111.

²⁸ *Supra* note 15, Para 24.

²⁹ *Supra* note 15, Para 281.

In the given circumstances, it is the dissenting opinion which appears to be more rationale and agreeable. The decision adopted is very narrow and almost appears that it was the apprehension that a host of litigations would open up throughout the country, on issues related to sports, that the majority refrained from treating the 'Board' as 'State'.

5. TORTIOUS LIABILITY IN SPORTS LAW UNDER THE INDIAN PERSPECTIVE

The Tort law in India has evolved from the UK Tort Law and it is commonly known as "judge made law" since it is not codified. However, if compared to the number of cases that are filed under Tort law in the UK and US, litigation number related to Tort in India is much lower. The Hon'ble Supreme Court in various landmark judgments has helped shape the Tort law in India. In *Union Carbide Corporation*³⁰ case the Apex Court had held that tort cases can be dealt with under Section 9 of CPC and there are a number of instances whereby the courts and the government have recognized the same in their rulings and has awarded exemplary damages in case of negligence, provided compensation to the rape victims and acknowledged torts committed by government employees. However, due to its uncodified status, the knowledge and use of Tort law is not so popular amongst the general public in India. Despite being an important form of law, cases under this law are not pursued in India as enthusiastically as they are in the UK and US and thus it is necessary to call attention to the fundamental principles and concepts of Tort so that people are more aware of their rights and liabilities.

Various principles of the Tort law has found its place in the criminal legislation of the country, namely, assault, defamation, theft, malicious injuries to property etc. The wrongdoer (tortfeasor) in such cases are liable under both criminal and civil laws, by way of punishment as well as compensation or restitution, respectively.

The legislators need to explore the new contours of law related to sports and subsequently, the judiciary too is required to pick up the pace in relation to issues regarding sports and act more efficiently. If implemented correctly, tort law can be very helpful in dealing with the

³⁰*Union Carbide Corporation and Others v Union of India and Others*, 1992 AIR 248.

grievances of stakeholders in sports because of its presence as a part of the common law, since a long time, and inclusion in the criminal and contractual provisions too.

With the recent developments and widespread of the sports industry, it is difficult to classify an issue categorically as a criminal or civil matter. Further, due to the existence of large number of laws, the foundation of criminal and civil jurisprudence in relation to sports law is extensive but the same is not applicable in case of Tort law. Therefore, it is necessary that the judiciary explores the incorporation of tort law in dealing with a sports related issue in the present setting.

6. ARBITRATION- WHETHER AN EFFECTIVE TOOL TO RESOLVE SPORTS DISPUTES IN INDIA?

In the year 2014, a PIL was filed before the Delhi High Court whereby the decision of International Boxing Association's (AIBA) to disbar boxer Sarita Devi for one year, for refusing to accept the bronze medal at the Asian Games, was challenged. It was contended that the Centre should take "due comprehension of the rules and regulations" as framed by Court of Arbitration for Sports (CAS), Lausanne for settling such disputes. It was further requested that the Centre be should exercise its intrinsic power to put across the respective local federations and associations to incorporate the CAS Arbitration Clause within their respective standards, which are situated within its respective jurisdiction. However, the mechanism or regulation available to challenge the decision of CAS remained unresolved. It was later found that CAS Rules specifically permit such an appeal within a specific time-limit. This distinctively shows that there is a trenchant absence of awareness within the sporting fraternity as the concerned sports administrators within various Federations and even within the Ministry are absolutely nonchalant and apathetic about gaining knowledge of newest advances in sports.³¹

³¹"PIL in Delhi High Court challenging boxer Sarita Devi's suspension by AIBA", *The Economic Times*, Dec. 10, 2015, <https://economictimes.indiatimes.com/news/sports/pil-in-delhi-high-court-challenging-boxer-sarita-devis-suspension-by-aiba/printarticle/45457656.cms> (last visited on June 26, 2021).

As observed in the case of Sarita Devi, it leaves the athletes competing under the tutelage of such federations in a stagger, as they are totally reliant on such federations. The current component in the Indian legal executive has prompted an enormous number of cases being accumulated which has deferred justice. Sportspersons have an extremely short period of career and in such situations, it is not possible for them to remain in the line of the court which may take a considerable period of time to determine the dispute at hand. Since, sports is at its most elevated public significance ever, it is necessary for dispute resolution mechanism to be effective. Arbitration is an appropriate strategy. It has diversity, quickness and professionalism. Litigation is not apposite option for dispute resolution due to the amassed number of disputes.

In India, National Sports Policy, 2001, Sports Law and Welfare Association of India, Sports Authority of India, the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, Youth Affairs and Sports Department of Sports are few of the overseeing bodies which deals with the administration of sports law. These administrative authorities look into the legal aspects and form newer regulations. Additionally, these administrative bodies advance sports in India and provide with a decent infrastructure to sports. However, implementation of these rules are challenging and difficult to ascertain any dispute arising out of the same. To fathom the disputes as earliest as possible, "International Olympic Association (IOA)" directed by the "International Olympic Committee" instituted an "Indian Court of Arbitration for Sports" (ICAS). Indian Court of Arbitration for Sports is comprised of eight retired Judges of higher judiciary. "All the disputes emerging in the connection of sports will be decided by the ICAS."³²

Sports Arbitration is comparatively a fresh perception under Indian jurisprudence. A proposition can be put forward that "Sports Arbitration" as a class be introduced under the Arbitration and Conciliation Act, 1996, serving it an assured sense of Parliamentary acceptability or be amalgamated through that of separate model conduct regulations that federations can take as a remedy. "If such a mechanism cannot be undertaken, there are

³²Karan Singh, "Sports Arbitration in India", *iPleaders Blog*, available at <https://blog.iPLEaders.in/sports-arbitration-india/> (last visited on June 26, 2021).

always other Alternate Dispute Resolution approaches like Mediation and Conciliation that could be utilized from the existing legal framework to resolve such a stalemate”.³³ There are instances where the principles of Tort law has been incorporated in legislations to smoothen the application, namely, the Environment Protection Act, 1986, the Consumer Protection Act 1986, the Human Rights Protection Act 1988, the Motor Vehicles Act, 1988. Therefore, if tortious liability can be implemented in case of Sports Arbitration too, it would provide a wider ambit to the law.

In fact these mechanism if extended to the arena of sports injury as well, where the victims can be readdressed rapidly, and precautionary mechanisms can be adopted before it is too late. It would ensure that the party injured receives justice in the manner the *lex loci* (law of the land) provides. Unfortunately, the delivery of justice in our nation takes a lot of time and fails to provide quick justice to the people who are involved in the sports fraternity, as the level carelessness of the wrong doer is hard to prove. The idea of tort and the available legislation of sports, together, will assist the courts to determine the wrongs and everyday occurring in the field of sports in a proficient way. If adequate and proper liability be imposed in the field of professional athletics, it would create the pitch a venue which is happy and healthy and not a field of fraud and extortion.

7. CONCLUSION

For as far back as five decades, sports as an industry, is one of the sectors that has expanded rapidly and has shown enormous development. Today the sports organization envelops sports telecasters, hardware producers, sports medication care suppliers, concessionaires who serve food and drink to fans at games, enterprises that support athletic occasions or competitors, and others that give sports related products and ventures. The huge number of partners infers

³³Devyani Jain, “Judicial Trend of Intervention in Sports Arbitration and Its Future in India”, 1 (1) *IJAL* (2020) available at http://www.ijal.in/sites/default/files/IJAL%20Volume%201_Issue%201_Devyani%20Jain.pdf (last visited on June 26, 2021).

tremendous interests which should be taken care of. To keep up the proficiency of the market, the problems associated with the same needs to be resolved efficiently.

Numerous fiddles have occurred in the field of different sports during the most recent couple of years, and, and yet serious legislative actions have not been taken. Different partners are associated with the games, and a ton of private cash is contributed to subsidize the games and the athletes. To secure the enthusiasm of such investors and to put limitations on some sporadic exercises, there is a need for an appropriate administrative instrument. The Central Government had proposed a bill known as the "National Sports Development Bill, 2013", but till now it has not transformed into an enactment. Undeniably, the bill too has few lacunae, sway appraisal of which is important. The present Indian situation on the legitimate concerns in the sports law is that there are dissipated enactments and there requires for an extensive sports law in India. Authorization of sports law ought to be a need in light of the fact that there are different issues which need consideration like sexual harassment, encroachment of media morals, authoritative issues, business issues, sports wounds, sports strategy concerning the competition law, and so on.

Sports and Sportsmen can only thrive, provided a Sports Law is there in India; the intercession of the Legislature is a must. India needs to comprehend that sports is no longer an immaterial cluster of athletes doing combating for the top position yet it likewise includes perplexing lawful issue and the whole vocation of the athletes is in question. Sports is unquestionably a compensating profession. Endeavor ought to be made to improve the donning condition with the assistance of law. Game isn't constrained to entertainment alone, it also involves national pride. The rise of Indian Premiere League and Indian Cricket League has begun to raise significant issues with respect to Competitive nature and deliberate damage that may emerge out of the ongoing occasions. This enough exhibits the need to improve Sports Law and adoption of faster mechanisms to approach sports disputes in India.

It ought to likewise be remembered that quick resolution of disputes will not completely resolve the issue. It is equally important that organizations are set up with a working knowledge of sports laws, which includes specific rules and guidelines of each discipline and

also outline a compact and clearly distinguishable dispute resolution practice that places prominence on "Alternate Dispute Resolution". These specialized forums can accurately look after the disputes and frame hard time-lines which necessitate mandatory adherence by parties. The current circumstance obliges that the issues must be mediated through arbitration with CAS on the worldwide stage and ICAS on the domestic stage. A hope can only be articulated that ICAS initiates to exercise its authority in regard to sports disputes within its jurisdiction and subsequently functions in a proficient way, by ensuring privacy and integrity.
