
THE LAW OF THE SKIES: UNDERSTANDING AVIATION LAW

Dr Harmandeep Kaur, Assistant Professor, School of Law, CT University, Ludhiana

ABSTRACT

The civil aviation sector has emerged as one of the fastest-growing industries in India, contributing significantly to national economic development, international connectivity, trade, tourism, and technological advancement. This remarkable expansion has simultaneously increased the need for a comprehensive and responsive legal framework capable of regulating the complex dimensions of modern aviation. Aviation law today extends beyond the regulation of aircraft operations to encompass passenger rights, aviation safety, airport administration, environmental concerns, accident investigation, security standards, and international cooperation.

This study critically examines the legal regime governing aviation at both the international and domestic levels. It analyses the evolution of international aviation law through key multilateral instruments, including the Paris Convention, 1919, the Chicago Convention, 1944, and the Convention for the Unification of Certain Rules for International Carriage by Air, 1999 (Montreal Convention). The paper further evaluates India's regulatory framework, with particular emphasis on the Bharatiya Vayuyan Adhiniyam, 2024, the Airports Authority of India Act, regulatory institutions, and passenger protection mechanisms. It also considers the role of judicial interpretation in resolving disputes arising from aviation accidents and determining the liability of carriers and public authorities.

The study concludes that although India has developed a robust institutional and legislative framework aligned with international standards, several legal and regulatory challenges continue to persist. Issues relating to compensation for ground victims, emerging cybersecurity threats, environmental sustainability, technological innovation, and the establishment of specialised adjudicatory mechanisms require greater legislative and policy attention. Strengthening these aspects is essential for ensuring a safe, efficient, and internationally competitive aviation sector capable of meeting the demands of future air transport.

Keywords: Aviation Law, Airspace Sovereignty, Civil Aviation, Aircraft Safety, International Air Law, Passenger Rights, Aviation Regulation, DGCA, ICAO, Bharatiya Vayuyan Adhiniyam, 2024.

I. Introduction:

Earth has four spheres called, the lithosphere, hydrosphere, biosphere and atmosphere. In atmosphere, there are various layers of air space including troposphere, stratosphere, mesosphere, thermosphere along with exosphere.¹ Stratosphere is the layer which extends from the tropopause (the upper boundary of the troposphere) and ends around 50 kilometers above the surface of the Earth. The air crafts fly in this layer due to strong horizontal winds which are blowing in this layer. But this layer is crucial to life on Earth because of the reason that this layer is place for small amounts of ozone (a form of oxygen that prevents harmful ultraviolet radiation from reaching the surface of the Earth). Due to the ozone layer's presence in this area, this stratosphere layer is very hot because it absorbs heat radiations which are reflected by the Sun. So, this layer has the high temperature.² Every State has sovereignty over its air space. The State can withdraw the permission given to other States, for example, recently India closed its airspace to all aircraft registered, operated, or leased by Pakistan including commercial airlines and military flights which is seen as a tit-for-tat response amid rising tensions following the deadly Pahalgam terror attack that left 26 people dead.³

II. International Law Regulating Air Space and Aviation:

Air space is used for aviation. A basic principle of international air law is that every State has complete and exclusive sovereignty over the air space above its territory, including its territorial sea. Every State is entitled to regulate the entry of foreign aircraft into its territory and that persons within its territory are subject to its laws. Aviation law is an essential aspect of the aviation industry, ensuring the safe and efficient operation of aircraft both domestically and internationally. It plays a crucial role in regulating everything from air traffic management to pilot certification to aircraft maintenance. Without proper laws and regulations in place, the aviation industry would be chaotic, putting passengers, crew and the public at risk. Aviation law helps to establish safety standards and protocols that must be followed by airlines, pilots and other industry stakeholders to minimize the risk of accidents and incidents. These laws cover everything from aircraft maintenance and inspections to flight operations and air traffic management.⁴ The technical developments in aviation arising out of World War I created a

¹ Gazala Noor, *Aviation Law* 10 (BFC Publications, 2024).

² Nishant Singh, *International Aviation Law* 10 (Asia Pacific Holdings Pvt Ltd, 2020).

³ How India shutting airspace will impact Pakistan, *available at*: <http://www.indiatoday.in> (Visited on June 29, 2025).

⁴ Why is aviation law important, *available at*: <http://www.linkedin> (Visited on June 20, 2025).

completely new situation at the end of the hostilities, especially with regard to the safe and rapid transport of goods and persons over prolonged distances. However, the war had also shown the ugly potential of aviation. It had therefore become much more evident that this new and now greatly advanced means of transport required international attention.⁵

i. The Paris Convention, 1919:

At first, in the year 1910, a Conference was organized in Paris which became the basis for the Paris Convention, 1919 and it was the first international convention regulating aviation. As per this Convention, the sovereign rights have been given to the State Parties over their air space.⁶ Each nation has the right to deny entry and to regulate flights, both foreign and domestic, into and through its airspace. The concept of right to innocent passage over the air space belonging to another country was also recognized.⁷ The Convention further stressed upon the peaceful uses of air space and imposed a prohibition on military use of air space. Each nation has to apply its aircraft rules equally to its own and foreign aircraft operating within that airspace while affording as much freedom of passage as possible to the aircraft operators. Further, an aircraft must be registered to a State and they possess the nationality of the State in which they are registered.⁸ Every aircraft which finds itself above a prohibited area, is required to give the signal of distress and to land as soon as possible outside the prohibited area at one of the nearest aerodromes of the State unlawfully flown over.⁹

ii. The Chicago Convention, 1944:

The Chicago Convention, 1944 has been called the Magna Carta of the air law. This Convention directed the State Parties for seeking prior permission of the State for use of its air space for proposed air flight. This Convention also established the International Civil Aviation Organisation (ICAO) and ICAO serves as the global forum for cooperation and coordination among member States. The aim of the Convention is to establish international cooperation in civil aviation and to establish common principles and standards for the industry.¹⁰ The Convention recognizes that every State has complete and exclusive sovereignty over the air

⁵ *Ibid.*

⁶ The Paris Convention, 1919, art 1.

⁷ *Id.*, art 2.

⁸ *Id.*, Chapter II.

⁹ *Id.*, art 4.

¹⁰ The Chicago Convention, 1944, Preamble.

space above its territory.¹¹ Here, the territory includes the land area and territorial waters adjacent thereto. Each State is required to use its civil aviation for the purposes consistent with this Convention. Under the Convention, each contracting State undertakes to provide assistance to aircraft in distress in its territory as it may find practicable.¹² In the event of accident to an aircraft and involving death or serious injury or serious technical defect in aircraft or in air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, shall use the procedure as may be recommended by ICAO.¹³

iii. The Convention for the Unification of Certain Rules for International Carriage by Air, 1999

The Convention attempts to re-establish uniformity of rules regulating the international carriage of passengers, of baggage and of cargo.¹⁴ The Convention aimed towards protecting the interests of consumers in carriage by air. It focused on the need for equitable compensation which further relied on the principle of restitution. It reaffirmed the requirement of a well-managed development of air transport operations and for the smooth carriage of passengers, of baggage and of the cargo.¹⁵ The Convention provides for the right to claim compensation for damage sustained due to accident of an aircraft. The damage may have been caused to the passengers on board as well as to the aircraft but it does not cover the aspect of damage to victims who are on ground and who could equally be exposed to the loss emanating from these accidents. The carrier of the aircraft has been held liable for the damage accruing by such accident. In case of death or of bodily injury of a passenger, the condition to be proved is that the accident which causing death or injury, took place on board the aircraft or during the course of the embarking or disembarking of the aircraft.¹⁶

Under the Convention, the carrier has been held liable for compensation which may extend to 1,00,000 SDRs (Special Drawing Rights)¹⁷ for every passenger. The carrier has no right to

¹¹ *Id.*, art 1.

¹² *Id.*, art 25.

¹³ *Id.*, art 26.

¹⁴ The Convention for the Unification of Certain Rules for International Carriage by Air, 1999, Preamble.

¹⁵ *Id.*, art. 1.

¹⁶ *Id.*, art 17.

¹⁷ The amount mentioned in as SDRs under this Convention shall be considered as referring to the SDRs as are laid down by the International Monetary Fund. The amount of SDRs shall be converted into the national currencies for purpose of liability in accordance with the value of such national currency in terms of the SDRs in force at that day of decision. The method of valuation shall be same as has been applied by the International Monetary Fund or as per the manner determined by the State concerned, if that State is not member of the Fund.

exclude or limit the prescribed liability.¹⁸ But the carrier can exempt himself from such liability by proving any of the following points:

- that the carrier, his servant or his any of the agents had no negligence on their part and had committed no wrongful act in causing such damage.
- that the damage caused has been only because of the negligence or a wrongful act on part of a third party.

III. Aviation Regulation in India:

At present, the Indian aviation industry has been dominated by various private airlines and the air travel has become affordable. Various airline companies have been nationalized by the government through application of the Air Corporations Act, 1994. The Open Sky Policy which was adopted by the government in April, 1990 and thereafter in 1994, has allowed the air taxi operators to operate their flights from any airport and also that they can decide the schedule of their flight as well as fares.¹⁹ Following are the various laws regulating aviation related activities which are in force in India:

i. The Airport Authority of India Corporations (Transfer of Undertakings and Repeal) Act, 1994

This Act provide for the constitution of the Airports Authority of India and for the transfer and vesting of the undertakings of the International Airports Authority of India and the National Airports Authority to and in the Airports Authority of India for the better administration and cohesive management of airports and civil enclaves.²⁰

• The Airport Authority of India:

The Airport Authority of India has been established under this Act by the Central Government. The Authority is a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable and to contract and can by the said name sue and be sued.²¹ The Airport Authority of India was

¹⁸ The Convention for the Unification of Certain Rules for International Carriage by Air, 1999, art.21.

¹⁹ Prof. Dr. Sandeepa Bhat B., *A Handbook on International Aviation Law* 1 (Thomson Reuters, 2023).

²⁰ The Airport Authority of India Corporations (Transfer of Undertakings and Repeal) Act, 1994, Preamble.

²¹ *Id.*, s. 3.

established on April 1, 1995. At that time there took place the merging of the International Airport Authority of India (IAA) and National Airports Authority (NAA). It has following functions:

- To accelerate the integrated development, expansion and modernisation of the operational, terminal and cargo facilities at the airports in the country conforming to international standards.
- To design, develop, operate, maintain the international and domestic airports
- To control and manage the Indian airspace extending beyond the territorial limits of the country.
- To cause construction, modification and management of passenger terminals.
- The development and management of cargo terminals at international and domestic airports.
- To manage passenger facilities and information system at passenger terminals at airports
- To expand and strengthen the operation area (runway, apron, taxiway and so on).
- To manage visual aids, communication and navigation aids.²²

ii. The Passenger Charter of Rights issued by Ministry of Civil Aviation:

The Ministry of Civil Aviation has drafted Passenger Charter in the year 2019. This Charter provides for compensation as following:

In an unfortunate eventuality, during international travel if there occurs death or bodily injury to a passenger on board on aircraft, the airline is liable to pay damages upto 1,13,100²³ SDR per passenger. But it shall not apply in case death is caused by natural causes inside

²² *Id.*, s. 12.

²³ The SDR is an international reserve asset. The SDR is not a currency but its value is based on a basket of five currencies; the US dollar, the euro, the Chinese renminbi, the Japanese yen and the British Pound sterling. The SDR value in terms of the US dollar is determined daily based on the spot exchange rates observed at around noon London time.

aircraft.²⁴

In an unfortunate eventuality, during domestic travel, if there occurs death or bodily injury to a passenger on board on aircraft, the airline is liable to pay damages upto 20,00,000 SDR per passenger. But it shall not apply in case death is caused by natural causes inside aircraft.

Airlines will not have the obligation to pay compensation in cases where the delays and cancellations are caused by an event of force majeure. It means the extraordinary circumstances which are beyond the control of the airline, the impact of which led to delay of flights and which could not have been avoided even by taking all reasonable measures. Following can be such Extraordinary circumstances may include political instability, natural disaster, civil war, insurrection, riot, flood, air traffic control, security risks, meteorological conditions, explosion, governmental regulations or orders, strike or labour disputes causing cessation, slowdown or interruption of work.²⁵

As per the Charter, the passenger can lodge and claim compensation at help desks which are placed at arrival as well as at departure stations or he can do so by electronic mode. If the passenger is not satisfied with the decision of the airline, he has the right to file the grievance on Air Sewa app or on Portal. If the passenger is not satisfied with this also, then he has right to file a complaint to any statutory body or court set up under relevant applicable laws.

iii. The Bharatiya Vayuyan Adhiniyam, 2024:

The Bharatiya Vayuyan Adhiniyam, 2024 provides for regulation as well as control of the maintenance, design, operation, possession, manufacturing, use, sale along with import and export of the aircraft. The establishment as well as powers of the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security, the Aircraft Accidents Investigation Bureau have been provided under the Adhiniyam.²⁶ This Adhiniyam has replaced the Aircraft Act, 1934 and modernised India's aviation sector, enhancing safety measures and to align with global standards. This Adhiniyam includes 8 chapters and 43 sections. This new law will foster indigenous manufacturing under Make in India and Atmanirbhar Bharat Initiatives to align

²⁴ Passenger Charter of Rights, *available at*: <http://www.civilaviation.gov.in> (Visited on January 15, 2025).

²⁵ *Ibid.*

²⁶ The Bharatiya Vayuyan Adhiniyam, 2024, *available at*: <http://www.indiacode.nic.in> (Visited on June 29, 2025).

with international conventions as the Paris Convention, 1919, the Chicago Convention, 1944, ICAO and so on.²⁷

- **The Authorities Regulating Aviation Sector under the Bharatiya Vayuyan Adhiniyam, 2024:**

The Director General of Civil Aviation (DGCA)

This is the regulatory body which is active in the field of civil aviation. This body is headed by an officer designated as the Director General of Civil Aviation appointed in this behalf by the Central Government. The administration of the Directorate General of Civil Aviation vests in the Director General of Civil Aviation.²⁸ It primarily deals with safety issues and regulatory functions. It is responsible for regulation of air transport services to India, from India and within India. It is responsible for air safety and for maintenance of air worthiness standards. Besides these, it has following functions:²⁹

- Registration of civil aircraft.
- Formulation of standards of airworthiness for civil aircraft registered in India.
- Grant of certificates of airworthiness to aircraft.
- Licensing of pilots, aircraft maintenance, engineers and flight engineers and conducting examinations and checks for that purpose.
- Licensing of air traffic controllers.
- Clearance of scheduled and non-scheduled flights of air transport service operators.
- Conducting investigation into accidents/incidents and taking accident prevention measures.
- Implementation of safety aviation management programs.

²⁷ Achievement of Ministry of Civil Aviation, *available at*: <http://www.pib.gov.in> (Visited on June 29, 2025).

²⁸ The Bharatiya Vayuyan Adhiniyam, 2024, s. 3.

²⁹ *Id.*, s. 4.

- To carry out amendments to Aircraft Act and Rules and to propose amendments to such regulations and to comply with international conventions and to cause amendment to the existing conventions.
- To establish coordination at national level between civil and military air traffic agencies.
- To keep check on aircraft noise and engine emissions and to collaborate with environmental authorities.
- To promote indigenous design and manufacturing of aircraft and its components.³⁰

The Bureau of Civil Aviation Security

The Bureau of Civil Aviation Security was set up as a cell in Director General of Civil Aviation in January, 1978. On April 1, 1987, it became an independent department under the Ministry of Civil Aviation. It has its Headquarter located at New Delhi. It has four regional offices at Delhi, Mumbai, Kolkata and Chennai. This body is headed by an officer designated as the Director General of Bureau of Civil Aviation Security who is appointed by the Central Government. The Bureau of Civil Aviation Security is responsible for carrying out the regulatory and oversight functions in respect of matters relating to civil aviation security. The administration of the Bureau of Civil Aviation Security vests in the Director General of Bureau of Civil Aviation Security.³¹

It has following functions:

- To lay down standards and measures with respect to security of civil flights at international and domestic airports in India.
- To lay down aviation security standards for airport operators, airline operators and their security agencies.
- To monitor the implementation of security rules.

³⁰ *Ibid.*

³¹ *Id.*, s. 5

- To carry out survey of security needs.
- To ensure training of persons implementing security controls.
- To plan and coordinate aviation security matters.³²
- To plan dummy checks to test professional efficiency and alertness of security staff.

Aircraft Accident Investigation Bureau (AAIB):

Earlier, the Air Safety Directorate of Director General of Civil Aviation was carrying out the duties and responsibilities regarding investigation of aircraft accidents and incidents. The Bureau was established, by the Government of India on July 30, 2012, in accordance with recommendations laid down by the International Civil Aviation Organization, the purpose of which was to provide independence of investigation.³³ It was designated as an ‘Attached Office’ of the Ministry of Civil Aviation. It can have immediate and unrestricted access to all relevant evidence from any agency or organization without seeking consent from judicial bodies or other governmental authorities. This institution is headed by an officer designated as the Director General of Aircraft Accidents Investigation Bureau who is appointed in this behalf by the Central Government.³⁴ The Aircraft Accidents Investigation Bureau is responsible for carrying out the functions in respect of matters relating to investigation of aircraft accidents or incidents. The administration of the Aircraft Accidents Investigation Bureau vests in the Director General of Aircraft Accidents Investigation Bureau.³⁵

iv. The Ministry of Civil Aviation:

The Ministry is situated at Rajiv Gandhi Bhavan at Safdarjung Airport, New Delhi. It is responsible for administration of the legislations regulating the aviation sector in our country such as the Aircraft Act the Aircraft Rules as well as other laws pertaining to aviation sector in India. It is responsible for formulation of national policies as well as programs for development and regulation of the civil aviation sector. It exercises administrative control over various air related organisations such as Director General of Civil Aviation, Bureau of Civil Aviation

³² *Id.*, s. 6.

³³ *Id.*, s. 7.

³⁴ *Ibid.*

³⁵ *Ibid.*

Security, Indira Gandhi Rashtriya Uran Akademi (Which focuses on aviation education), Airport Authority of India, Pawan Hans Helicopters Ltd and so on.³⁶

v. Airports Economic Regulatory Authority of India:

The Airports Economic Regulatory Authority of India was established by Government of India on May 12, 2009. The Airports Economic Regulatory Authority of India Act was enacted in 2008. This Authority has following functions:³⁷

- To regulate tariff for the aeronautical services.
- To determine other airport charges for services rendered by major airports.
- To monitor the performance standards of such airports.

Under the Act, the Central Government has established an Authority, named, the Airports Economic Regulatory Authority. The Authority is a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and can sue or be sued.³⁸

IV. Major Incidents of Plane Crash in India:

Same incidents have happened in past also the list of which can be seen as under, though this list is not exhaustive:³⁹

- On August 7, 2020, Air India Express Flight 134, a Boeing 737-800 flying the Dubai-Kozhikode route, overshot the runway on landing at Calicut International Airport, breaking into 4 pieces. This incident resulted into death of 18 persons.
- On May 22, 2010, Air India Express Flight 812, a Boeing 737-800 flying the Dubai-Mangalore route, overshot the runway 24 on landing at Mangalore International Airport. This incident resulted into death of 158 persons.

³⁶ Ministry of Civil Aviation, *available at*: <http://www.civilaviation.gov.in> (Visited on June 28, 2025).

³⁷ The Airports Economic Regulatory Authority of India Act, 2008, Preamble.

³⁸ *Id.*, s. 3.

³⁹ Air India Disaster: Eleven Planes that crashed in the past, *available at*: <http://www.thehindu.com> (Visited on June 20, 2025).

- On July 17, 2000, Alliance Air Flight 7412, a Boeing 737-2A8, crashed in a residential estate of Patna after the pilot lost control of the aircraft. This incident resulted into death of 60 persons.
- On April 26, 1993, Indian Airlines Flight, 491 crashed into a truck at the end of the runway while taking off from Aurangabad, Maharashtra. The cause was both pilot error and the failure of the aviation administration to control highway traffic. This incident resulted into death of 55 persons.
- On August 16, 1991, Indian Airlines Flight 257 crashed on descent into Imphal due to pilot error. This incident resulted into death of 69 persons.
- On February 14, 1990, Indian Airline Flight 605 crashed on its final approach to Bangalore airport. The cause was pilot error. This incident resulted into death of 92 persons.
- On October 19, 1988, Indian Airlines Flight 113 crashed on its final approach to Ahmedabad airport due to pilot error. This incident resulted into death of 130 persons.
- The Air India Flight 182 bombing occurred on June 23, 1985, when a bomb exploded on the aircraft off the coast of Ireland, resulting in the deaths of 329 individuals, including 307 passengers and 22 crew members. This tragic event was rooted in a complex context of political and religious tensions, particularly the Sikh struggle for an independent state called Khalistan in India, which had intensified following significant incidents such as the 1984 raid on the Golden Temple and the assassination of Prime Minister Indira Gandhi. The bombing was linked to militant Sikh separatists, with a group of conspirators also responsible for a simultaneous explosion on Canadian Pacific Flight 003 in Tokyo.
- On June 21, 1982, Air India Flight 403 crashed at Sahar International Airport in Bombay due to heavy weather. This incident resulted into death of 17 persons.
- On January 1, 1978, Air India Flight 855 crashed off the coast of Bandra, Bombay when the captain became spatially disoriented after the failure of one of the flight instruments in the cockpit. This incident resulted into death of 213 persons.

- On October 12, 1976, Indian Airlines Flight 171 crashed at Bombay as inflight fire was caused by an engine failure. This incident resulted into death of 95 persons.
- On May 31, 1973, Indian Airline Flight 440 crashed on approach to Palam airport due to pilot error. This incident resulted into death of 48 persons.
- On December 9, 1971, Indian Airlines Avro Aircraft HS 748 crashed in the forests of Meghamalai. The flight was round trip from Chennai to Trivandrum via Madurai. This incident resulted into death of 31 persons.⁴⁰

V. Role of Judiciary

At various occasions, the judiciary has played an important role in interpreting the aviation laws in India as following:

In case of *Shri Thota Sayyed and Anr. v. The Flag Officer Commanding, Goa & Another*,⁴¹ the petitioners prayed for issuance of writ of mandamus or an order or direction in that nature, commanding the respondents to pay compensation in the sum of Rs.75,00,000 alongwith interest at the rate of 18% per annum for the total destruction caused to the petitioners' bungalow, compound wall and the land due to the crash of the aircraft belonging to the respondents. On 1st October, 2002, an aircraft belonging to the respondents crashed into the said bungalow resulting in total destruction of the bungalow. The petitioners made representations to the respondents for paying them the compensation. Those remained unheeded. They gave notice. But the petitioners' grievance remained unaddressed. For nearly three years, the petitioners' claim for compensation has remained in cold storage. There was extensive damage to the bungalow and the said bungalow was rendered uninhabitable due to the accident. The petitioner claimed that the damage to the bungalow excluding the articles, furniture, fixture etc. inside the same is around Rs. 22,00,000. The articles, furniture, fixtures and other miscellaneous items which were inside the bungalow were worth about Rs. 25,00,000. The compound wall, gate, bore well, shed, sewerage line, septic tank, etc. were worth about Rs.5,00,000. The total loss suffered by Mr. Thota Sayyed and Mrs. Shams had Sayyed due to the Naval Air Craft accident is around Rs.52,00,000. The court held that the valuation report gives a complete and cogent basis for arriving at the valuation. There is no challenge to this valuation report. It can form the basis for award of compensation to the

⁴⁰ *Ibid.*

⁴¹ AIR 2006 Bombay 274.

petitioners. The court directed the Registrar of the court to permit withdrawal of an amount of Rs. 30,00,000 by the petitioners out of the amount of Rs.52,00,000 deposited by the respondents in compliance of the Order of this Court dated 30th August, 2005. The remaining amount of Rs. 22,00,000 was to remain credited to the Government treasury for a period of three months. If any suit is filed by the petitioners for enhanced compensation within limitation for the loss caused to them and any interim order is passed by the civil court with regard to the remaining amount of Rs. 22,00,000, the said amount to be dealt with accordingly. This obviously does not preclude the petitioners from claiming higher compensation by approaching competent court of civil jurisdiction.

In case of *Wing Commander (Retired.) Or Prasad v. Union of India & Ors.*,⁴² the petitioner had come up before the court, aggrieved by the lack of grant of disability pension, consequent to his pre-mature retirement, after 23 years of Service. During his Service tenure he has suffered injuries and consequent disability, as a result of an aircraft crash. On 21.11.1980, the petitioner was involved in an air accident. Consequently, he had to eject from his Fighter Aircraft and suffered severe injuries. Thereafter, he was admitted and treated in the Military Hospital, but could not be cured completely. On completion of 23 years of Service, the applicant requested for his pre-mature retirement from the IAF and was discharged from Service w.e.f. 01.07.1999. Post his retirement, quoting relevant Regulations, the IAF did not recommend his case for grant of disability pension. Subsequently, he has not been granted any disability pension, for his attributable disability, as a consequence of the aircraft accident. In this case, the court ordered the respondents to pay 40% of disability pension to the petitioner as calculated from the date of his discharge from service i.e., 01.07.1999 along with interest on these at the rate of 12% per annum.

In the case of *National Aviation Company of India Ltd. v S. Abdul Salam*,⁴³ on May 22, 2010, the crash of Air India Express Flight upon landing at Bajpe International Airport in Mangalore resulted into death of 158 persons and 10 persons got injured. The legal dispute in this case centered around the extent of compensation for victims under the Montreal Convention, 1999. The question arose whether Air India Express was obliged to pay a minimum compensation of 1 lakh SDRs (Special Drawing Rights) to family of each victim. Whether the individual circumstances of the victims were also to be taken into consideration, such as age and income of the victim as well as loss of dependency on the victim. The Court analysed the principles of

⁴² 2007 Latest Caselaw 2486 Del.

⁴³ 2011 (4) KLT 72.

the Montreal Convention and the High Court held that under Montreal Convention, the carrier holds the unlimited liability for damages which stood proved. The Court further held that there is no obligation under the Convention to pay a minimum compensation. The amount of compensation should be based on actual damage which has to be proved by the claimant. However, the airline is presumed guilty and it has to pay a prescribed minimum compensation as prescribed. Further, the victim has the right to file claims in his own country.

Recently, on June 12, 2025, there was a plane crash of an Air India Boeing 787 in Ahmedabad. Around 275 people died due to this accident. This crew members and people on ground are also victims. Air India has maintained \$1.5 billion in liability insurance. This claim can exceed if the fault is established on part of the carrier which means if any negligence or other fault on part of Air India is proved then the liability may increase. Air India has announced the amount of compensation as one crore for each family whose member is killed in this accident.⁴⁴

VI. Conclusion:

A lot has been done at international and national level to ensure the safe air travel. At international level, the Paris Convention, 1919, the Chicago Convention, 1944, the Convention for Unification of Certain Rules for International Carriage by Air, 1999 have been marked as great achievement. At national level, in India, the Airport Authority of India Corporations (Transfer of Undertakings and Repeal) Act, 1994, the Bharatiya Vayuyan Adhiniyam, 2024, the Ministry of Civil Aviation, the Director General of Civil Aviation, Airports Economic Regulatory Authority of India, the Bureau of Civil Aviation Security, Aircraft Accident Investigation Bureau and the Airport Authority of India have contributed a lot in ensuring air flight safety.

After analyzing the whole legal regulation mechanism relating to aircraft at international and national level, it can be concluded that though a number of conventions, Acts, Rules have been enacted but still a lot is required to be done. The term air space needs to be defined under international air law. The national air law of India needs to fix liability of the carrier for the victims on ground also. There is need to establish a special judicial body to deal with cases of air law. Special procedure for that judicial body also needs to be laid down.

⁴⁴ Ahmedabad Flight Crash, *available at*: <http://www.thehindu.com> (Visited on June 29, 2025).