



**CURRENT SCENARIO OF
MEDIATION UNDER
STATUTORY PROVISIONS**



Section 89 Read with Order X Rule 1A CPC provides for reference of cases pending in the Courts to ADR.


Order XXXII A of CPC recommends mediation for Familial/Personal Relationships, as the ordinary judicial procedure is not ideally suited to the sensitive area of personal relationships.




Section 442 of the Companies Act, 2013 read with the Companies (Mediation & Conciliation) Rules , 2016 provides for referral of disputes to mediation by the National Company Law Tribunal and Appellate Tribunal.




Section 18 of Small and Medium Enterprises (MSME) Development Act, 2006 mandates conciliation when disputes arise on payments to MSMEs



Hindu Marriage Act, 1955 and **Special Marriages Act, 1954** require the Court in the first instance to attempt mediation between the parties.




Section 32(g) of the Real Estate (Regulation and Development) Act, 2016 provides for amicable conciliation of disputes between the promoters and allottees through dispute settlement forum, set up by consumer or promoter associations.




129th Law Commission of India Report
recommends courts to refer disputes for
mediation compulsorily.

The 2018 amendment to the **Commercial Courts Act, 2015 (Section 12A)** made it mandatory for parties to exhaust the remedy of pre-institution mediation under the Act before instituting a suit. *The Commercial Courts (Pre-Institution Mediation and Settlement) Rules 2018* (the PIMS Rules) have been framed by the government. Settlements arrived at in this process are enforceable by law. The period of mediation would not be computed for the purposes of limitation under India's Limitation Act. Effective implementation of this provision can be major boost for economic growth.

In the matter of *MR Krishna Murthi v. New India Assurance Co. Ltd.*, (C.A. No.2476-2477 of 2019 dated 05.03.2019), the Supreme Court, asked the government to consider the feasibility of enacting an **Indian Mediation Act** to take care of various aspects of mediation in general. The Court further directed the government to examine the feasibility of setting up a Motor Accidents Mediation Authority (MAMA) by making necessary amendments in the Motor Vehicles Act. In the interregnum, NALSA was directed to set up Motor Accident Mediation Cells, which can function independently under the aegis of NALSA or can be handed over to MCPC.



The new ***Consumer Protection Act, 2019***, under **Section 37-38 and Chapter V**, provide for disputes to be first referred to mediation and the procedure to be followed as per Section 74(3) of the Act read with Section 101(2)(zf) and Section 102(2)(p) of the Act. The Central government and the state government, respectively, have been empowered to make rules for providing for the persons in the consumer mediation cell.



As regards international disputes, India is a signatory to the United Nations Convention on Mediation (the Singapore Convention), which gives mediation settlements the force of law.