

Unique insights on the practice of shipping that they don't teach in law school

SHIP ARREST IN INDIA

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Sector: Admiralty, Shipping and Maritime

Ms. Aanchal Bedi, of Indian English daily newspaper Hindustan Times, Interviews Dr. Shrikant Hathi, partner at Brus Chambers, Advocates & Solicitors, who is listed consistently in the elite "Leading Lawyers" list as "Leading Individual", by Legal 500 and many others since 2004 for shipping work in India, studies and understands about being a shipping lawyer. He is also a known figure for project work in India. He talks about working on ship arrest, shipping litigation in India and balancing the amount of law involved with shipping nous he has developed.



Brief introduction about Shipping lawyers and their nature of work?

Shipping lawyers divide between those involved in contentious matters and those involved in commercial and finance transactions. Shipping spans a wide range of legal disciplines and skill sets. Shipping litigation itself divides between 'wet' work, which involves collisions and casualty work, and 'dry' work which tends to relate more to contractual disputes, cargo claims and charterparty matters. Within the commercial and finance practice a shipping lawyer would be involved in negotiating shipbuilding contracts, charterparties, management agreements and finance documentation. The finance lawyers who specialise in shipping tend to be regarded more as banking or asset finance lawyers, because much of their time is spent dealing with purely loan and security issues, much the same as one would encounter in other secured lending, but it just so happens that the primary asset and source of security for the lender is a ship.

The type of clients depends upon which area of shipping law you specialise in. Shipping lawyers would structure themselves within the law firm with contentious and non-contentious work being done in different groups. For the litigators their clients will tend to be a mix of ship owners, ship chandlers, bunker suppliers, ship repairer, cargo owners, suppliers to ship, insurers, chartering and operating companies while disputes may be for services or supplies rendered to any ship, loss or damage done by any ship or received by any ship, disputes under bill of lading, unpaid dues, wages, mortgage, brokerage or agency fees. For transactional lawyers, their clients might be ship owners, banks and other financial institutions.

Dr. Shrikant Hathi is the Managing partner of the law firm Brus Chambers that has welded to a practice niche that specialises in shipping, corporate transactional work, dispute resolution and projects. One of the attractions of shipping law is its international nature and the firms lawyers are invariably acting for clients from overseas and have to

have a broad range of skills and knowledge about their clients, the basics of laws and legal systems in the other major maritime centres, as well as an awareness of cultural differences.

Background?

After completing bachelor's degree from Elphinstone College at Mumbai, he wasn't sure of his future career joined Government Law College and completed his law. He claims that he is a lawyer by default and not by choice, although he always dreamt of being an engine driver since childhood.

After completing his law, was employed by Mr. Charles J.E. Grundy of Little & Co, as a junior advocate where he was asked to expand the firm's scope by handling cases related to maritime affairs, while working he also completed his masters in law and also the solicitor's examination which is conducted by the Bombay Incorporated Law Society. On Grundy's death he moved on, and joined the law firm Brus Chambers as a managing partner. He pursued with his studies while he was a partner and completed his solicitors from England and Wales, PhD and also got admitted to the Supreme Court of India as and Advocate on record.

He earned the reputation at international level for shipping work and is also known as 'ship arrestor'. He is listed in the elite 'Leading Lawyers' list as 'Leading Individual' for shipping work in India by Legal500 and many other since 2004.

Getting there? Being a shipping expert?

To practice law what you need is LLB degree and should be enrolled with the respective State Bar Council and after that it is only through experience that you learn the tricks of the trade while all other degrees are 'add-ons' but these additional degrees do make a huge difference whether you are in the job market or in practice.

Shipping lawyers are very few as it is very technical and a specialised law practice. There are shipping lawyers and they are plain LLBs. There are universities that offer postgraduate course in marine law but to practice law all that you need is LLB.

In Ship arrest, doing the documentation work for such arrests is not easy but one ought to be very agile and well versed with the procedures and should be very quick. "You might have to do everything in half a day – from arranging the papers to tracking the vessel, application of law for ship arrest and from checking the legal conventions to adhering to their procedural patterns. A minor goof-up may lead to wrongful arrest therefore have to be very careful at all point of time. Such arrests, however, are not everyday affairs and one can't survive merely on shipping litigation. One ought to develop expertise in transactional work, too.

"Ship arrest litigation work is very limited while statistics reveals that in Bombay High Court, there would be somewhere around 125- 150 new cases every year, Calcutta High Court might have ten and Madras High Court about three to four while Gujarat High Court may have one

or two. No wonder, there are only a handful of shipping law firms or lawyers in India, most of them concentrated in Mumbai, to deal with such matters. Mumbai is important because of its Pan-India ship arrest jurisdiction unlike Ahmedabad, Kolkata and Chennai, which deal with cases related to their own state territory," Hathi says.

Even though senior lawyers have junior lawyers and back-up staffs to shoulder some of their tasks, it doesn't relieve the senior lawyer of his/her responsibilities because "ultimately it's the responsibility of a senior lawyer as the buck stops with him," adds Binita Hathi a solicitor and a partner of Brus Chambers, also attending to shipping work.

Liking for shipping law is the basic instinct, reading, updating on shipping laws, judgments, procedures, drafting of court pleadings, documents, understanding shipping terms, documents and also updating on the happenings in the shipping world are important factors to become a shipping law expert.

Shipping lawyers are legal professionals who deal with contentious or non-contentious matters. In ship arrest litigation matters one has to be well versed with admiralty laws and laws relating to the subject matter of dispute and court procedure. They are required to represent client for arrest or release of a ship recovering unpaid dues, wages, ownership disputes, loss or damages done by any ship or received by any ship, dispute under bill of lading and all that are allowed under the Brussels and Geneva conventions on arrest of ships.

Your typical daily timeline?

08.30am: Office

08.45am: Read emails from client and replies/advising client

09.30am: Read journals, case laws, stay abreast of the latest developments

11.00am: Appear in court, if matter listed or for urgent applications

12.00pm: As managing partner, firm's administration work, meeting and planning

01.00pm: Prepare for new case, advising client, strategising and planning

03.00pm: Appear in court for urgent application, if any

04.30pm: Corresponding with clients/ advising clients

05.45pm: Meeting client or counsel

06.45 pm: Prepare for the next day's case or advising client on transactional work

07.45pm: Home, unless there is urgent work

The Payoff

Dr. Shrikant Hathi also has a piece of advice for the prospective maritime lawyers. "Though the profession pays well, (he charges a fee ranging between USD125 and USD300 per hour), one should be open to all fields of law as a fresher. Be receptive to all kinds of work," he says.

As a trainee or junior, a maritime lawyer can earn anywhere between Rs 5,000 to Rs 30,000 along with 2 percent of the profit cost in the matter to the junior lawyer attending to the file. The salary increases with experience and time.

Trainees at Brus Chambers are given significant responsibility and direct contact with clients on a day to day basis. The transactional work is fast paced, and trainees often find themselves attending meetings, attending ship registries to register documents as part of closing arrangements, and possibly travelling for completion meetings. Back at the office there tends to be a lot of drafting of documents and management of files and documents generally and in ship arrest, the trainee starts from scratch like tracking of the vessel, understanding the shipping documents, preparing briefing note, assisting in preparation of pleadings, attending counsel conference with seniors, attending court departments and almost everything that is required for the purpose of ship arrest.

Being a niche and specialised field, it is very difficult to start independent practice as a shipping lawyer and as such there are very few law firms or lawyers specialising in shipping.

Skills and traits to be a shipping law expert?

There are several acts pertaining to shipping laws, one should be well versed with the Admiralty Courts Act, Merchant Shipping Act, Carriage of Goods by Sea, Bill of Lading, Major Ports Act amongst others. Should be aware of the Indian cases and from major countries having admiralty jurisdiction. Understanding the Laws of Contract and International laws is important. One should also know the Court procedure, Rules, Code of Civil Procedure amongst other.

Pros & cons

You can make real money in shipping law amongst other areas but it is very specialised, technical and you have to be near perfect. Since experience is an important factor not many law firms/ lawyers specializing shipping law are available where one can be trained.

Personal Views

His training on shipping law was with Mr. Charles J.E. Grundy (now deceased) the last English solicitor of India, the then managing partner of the law firm Little & Co. In his view, he was perfect had vast knowledge about shipping law more so he was really good in handling clients and was a rainmaker.

Although, today he is tagged as the leading individual for shipping work in India even today he much appreciate Senior Counsel Mr. S Venkiteshwaran's knowledge on shipping law and on his near perfection. There are perfectionists in all industry whether it is Rani Mukherjee or Katrina Kaif from entertainment or N.R. Narayana Murthy; Ratan Tata; Fali Nariman or Dr. V. Kurien from other sector, they are near perfect in their respective areas of work and that's how it should be.

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