Volume 7, Issue 5, September | October 2015

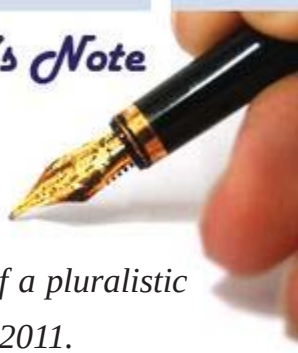
THE indian arbitrator

THE INDIAN ARBITRATOR

News Magazine of the Indian Institute of Arbitration & Mediation

In this Issue.....

Editor's Note



Greetings from IIAM!

The Norwegian Nobel Committee has decided that the Nobel Peace Prize for 2015 is to be awarded to the Tunisian National Dialogue Quartet for its decisive contribution to the building of a pluralistic democracy in Tunisia in the wake of the Jasmine Revolution of 2011. It established an alternative, peaceful political process at a time when the country was on the brink of civil war. The Nobel Committee hopes that this prize will be an inspiration to all those who seek to promote peace and democracy in the world. This emphasizes the role of mediators and the importance of mediation as an important tool for maintaining peace and harmony in the world. Let this Nobel Prize announcement be an inspiration for all mediators!

Thank you.

AMALGAMATIONS: AN IMPACT ON ARBITRATION AGREEMENTS

ADITH NARAYAN. V

Amalgamation, the concept in company law has always been a subject matter of dispute. Though amalgamations are guided by various regulations and enactments, the transfer of rights and obligations of the amalgamated company to the amalgamating company is a recurring source of dispute. This article would be dealing with the disputes regarding the effect of arbitration agreements entered between any of the amalgamated company before the amalgamation and whether the amalgamating company is a signatory to the arbitration agreement and whether they are bound by those arbitration agreements executed before amalgamation.

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In amalgamation, two or more companies are fused into one by merger or by taking over the other. Reconstruction or amalgamation has no prescribed legal meaning. Amalgamation is a blending of two or more existing undertakings into one undertaking, the shareholders of each blending company becomes substantially the share holders in the company which is to carry under the blended undertakings. There may be amalgamation either by the transfer of two or more undertakings to a new company, or by the transfer of one or more undertakings to an existing company but strictly, amalgamation does not cover the mere acquisition by a company to the share capital of other company which remains in existence and continues its undertaking for the context in which the terms is used may show that it is intended to include such acquisition[1].

It is a general principle in Company law that all rights and obligations of the amalgamated company become vested in the amalgamating company[2]. In an amalgamation, the privileges, rights and duties of the corporation are transferred to the surviving corporation and are there continued and preserved[3]. The Court moreover substantiated that the effect of amalgamation as being a 'transfer' of rights, powers and privileges[4]. When a whole undertaking is taken over, all rights are passed to the amalgamated company, whether mentioned in

(Footnotes)

[1] Halsbury Laws of England, 4th Ed. Vol. VII Para 1539.
[2] Nilinta Chemicals Ltd,Re, (1997) 26 Corpt LA 347 MP
[3] Vulcan Materials Co. v. United States. 446 F.2d 690,694 (5th Cir.1971)
[4] Bailey v. Vanscot Concrete Co. 894 S.W.2d 757,758 (Tex. 1995)

the schedule or not[5]. Thus, it could be understood that the rights, powers and privileges of the Transferor Company is transferred to the amalgamated company.

But, the peculiar question of law which is to be answered is whether the rights of Transferor Company under arbitration agreement are transferred to the Amalgamated Company. For this, a detailed study with reference to The Indian Contract Act, 1872 is to be made. This is to be analyzed with section 56[6] of the Indian Contract Act, 1872 which is a positive rule of law. Section 56 exhaustively deals with the doctrine of frustration of contracts and the court can give relief on the ground of subsequent impossibility when it finds that the whole purpose or the basis of the contract was frustrated by the intrusion or occurrence of an unexpected event or change in circumstances which was not contemplated by the parties at the date of contract.[7] Thus, it could be contended that the arbitration agreement becomes void because of subsequent impossibility as the transferor will no longer be in existence thereby making the arbitration agreement impossible to be enforced. This issue arose in the case of *Flowmore (P) Ltd., New Delhi vs U.P. State Industrial*[8]*,* where it was held that subsequent impossibility would not impinge upon the rights acquired and liabilities already incurred prior to occurrence of the event making the performance of any part of the contract impossible *nor will it affect the arbitration clause of the agreement if it is sought to be invoked in respect of any right acquired or liability incurred prior to the effective date*. Thus, it could be ascertained that the arbitration agreement is valid only to the extent of the right acquired or liability incurred before the process of amalgamation.

The next issue with respect to the Indian Contract Act is whether there is an implied assignment of the arbitration agreement by the transferor company to the amalgamated company. In *Patanjal vs. Rawalpindi Theatres*[9], the Division Bench of Delhi High Court in paragraph 8 had found that if the subject matter of the arbitration agreement is capable of assignment, then the assignee would step into the shoes of his assignor and be both bound by it and *entitled to enforce it*. The Division Bench

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(Footnotes)

[5] L.Mullick & Co. v Benani Properties (P) Ltd, (1983) 53 Comp Cas 693 Cal.

[6] Section 56 states that 'A contract to do an act, which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful'.

[7] Naihati Jute Mills Ltd. vs. Khyaliram (1968) 1 SCR 821, Satyabrata Ghose vs. Mugneeram 1954 SCR 310

[8] 2000 (1)AWC 493

[9] AIR 1970 Delhi 19

has held that for that purpose, one has to look into the law relating to assignment of contractual rights and obligations. In paragraph 9, British Judgments taking similar views are also quoted. The Gujarat High Court in the case of *Gujarat Water Supply and Severage Board vs. S.H. Shivanani*[10], held that while considering transfer of accountable claims, right to sue for damages has been held to be transferable.

In *Kotak Mahindra Prime Limited vs Sanjeev S/o Sadaram Chavare*[11], the Bombay High Court held that Appellant was free to initiate arbitration proceedings as per arbitration agreement between parties in accordance with law. The facts of the case are that the Respondents and Petitioner entered into a contract with an arbitration clause. The entire agreement with rights and obligations flowing there from entered into by Respondent No.1 in favour of Respondent No.2 has been assigned to and transferred by it to the present Appellant including the arbitration clause therein which was objected by the present Respondent.

In *M/s. Roy's Institute vs M/S. R.N.B.Digitronix*[12], the petitioner had taken over the business of the firm and wherein the petitioner also invoked the arbitration agreement. The Calcutta High Court held that 'It appears that the petitioner is entitled to the benefit of the arbitration clause contained in the arbitration agreement of October 1, 2004 and since the parties have failed to agree upon the constitution of the arbitral tribunal, the matter has now to be placed before the Hon'ble Designate of the Hon'ble The Chief Justice for constituting an arbitral tribunal to adjudicate upon the disputes between the parties covered by the arbitration agreement'.

From the above mentioned case laws, it could be noted that arbitration agreements could be assigned and the process of amalgamation causes an implied assignment which in valid in law.

Now, let us study this concept with respect to the Arbitration and Conciliation Act, 1996. Section 8 of the Arbitration and Conciliation Act, 1996 emphasizes the court to refer parties to arbitration when there is an existence of arbitration agreement. The significance of this section has been envisaged in the case of *P. Anand Gajapathi Raju vs P.V.G. Raju*[13], where the Supreme Court held that the language of section 8 was peremptory in nature and it is obligatory for the court to refer the matter to arbitration as per the subject matter of agreement. The view of the Supreme Court in its subsequent judgments in this regard has remained unparalleled and a new perception to section 8 was created by mandating reference to arbitration[14].

But, the issue whether non-signatories should be referred to arbitration as per section 8 of the Act was decided by the Hon'ble Supreme Court in the case of *Indowind vs. Wescare*[15]. The question which arose is that Indowind was not a signatory to the agreement dated 24.2.2006 and whether it could be considered to be a 'party' to the arbitration agreement. It was held that 'In the absence of any document signed by the parties as contemplated under Clause (a) of Sub-section (4) of Section 7, and in the absence of existence of an arbitration agreement as contemplated in Clauses (b) or (c) of Subsection

(Footnotes)

[10] AIR 1991 Guj. 170
[11] APPEAL AGAINST ORDER NO. 61 OF 2008
[12] AP No.34 of 2008
[13] (2000)4SCC539
[14] Hindustan Petroleum Corpn. Ltd.Vs Pinkcity Midway Petroleums (2003)6SCC503, Rashtriya Ispat Nigam Limited and Anr.Vs. Verma Transport Company (2006)7SCC275, Agri Gold Exims Ltd. Vs. Sri Lakshmi Knits and Wovens (2007)3SCC686
[15] AIR 2010 SC 1793

(4) of Section 7 and in the absence of a contract which incorporates the arbitration agreement by reference as contemplated under Sub-section (5) of Section 7, the inescapable conclusion is that Indowind is not a party to the arbitration agreement'. Thus, in the absence of an arbitration agreement between Wescare and Indowind, no claim against Indowind or no dispute with Indowind can be the subject- matter of reference to an arbitrator. Thus, this principle still holds good in all the subsequent decisions of the Supreme Court and High Courts.

Section 45 of the Arbitration and Conciliation Act, 1996 emphasizes the court to refer parties to arbitration when there is an existence of arbitration agreement. But, this is with respect to the foreign award mentioned in section 44 of the Act. The Supreme Court in the case of *Chloro Controls (I) P. Ltd. vs. Severn Trent Water Purification Inc.*[16] held that section 45 leaves no room for discretion: if the conditions in sections 44 and 45 are satisfied, the civil court is required to refer the parties to arbitration. With respect to whether it is appropriate to do so in multi-party arbitrations, the Court examined many theories on the basis of which such references have been made: group companies, claiming "through or under" a party to the arbitration clause etc. It accepted that a reference is permissible if the agreements are "intrinsically interlinked" and the ancillary agreements serve no purpose except in connection with the principal agreement which contains the arbitration clause. In other words, a composite transaction can be referred to arbitration even if some of the parties named as respondents are not parties to the arbitration clause.

The concept of non-signatory was explained with reference to section 45 of the Act in the same case. It was discussed that in Section 45, the expression '*any person*' clearly refers to the legislative intent of enlarging the scope of the words beyond 'the parties' who are signatory to the arbitration agreement. Of course, such applicant should claim through or under the signatory party. Once this link is established, then the Court shall refer them to arbitration. The use of the word 'shall' would have to be given its proper meaning and cannot be equated with the word 'may', as liberally understood in its common parlance.

(Footnotes)

[16](2013)1SCC641

Just to deal with such situations illustratively, reference can be made to the following examples in *Law and Practice of Commercial Arbitration in England (Second Edn.) by Sir Michael J. Mustill when 'the claimant has succeeded by operation of law to the rights of the named party'.* Thus, when all the parties to the lis are not signatory to all the agreements in question, but still they would be covered under the expression '*claiming through or under*' the parties to the agreement.

Therefore, conclusion could be drawn from the article that the effect of amalgamation will not affect the arbitration agreement with respect to section 45 of the Act which relates to foreign awards. This is because the scope of section 45 was widely interpreted by the Supreme Court thereby expanding the ambit of reference to arbitration even to non-signatories[17]. But, with respect to section 8, it could be analyzed from the judicial decisions that the courts do not make a reference to arbitration in case of non-signatories. The answer to the question of law whether the amalgamated company is signatory to the arbitration agreement which was executed before the process of amalgamation, is that they are *signatories* and a mandatory reference is to be made by the court in case of any dispute with regard to both section 8 and section 45 of the Act.

(Footnotes)
[17] Supra Note 16

Talking about ADR with Anil Xavier

Sarosh Zaiwalla, Founder & Senior Partner, Zaiwalla & Co., London has been involved in over 1,000 international litigations and arbitrations in the fields of Energy, Maritime and Construction either as solicitor, Counsel or Arbitrator. Over his career, Sarosh has acted for clients ranging from the President of India, the Government of the People's Republic of China (PRC) and the Iranian Government to the Bachchan and Gandhi families in India. In the backdrop of opening up of legal sector in India, Sarosh talks with Anil Xavier, Editor.

AX: *Mr. Sarosh, you were born and raised in Mumbai. Your father was a lawyer in India, but how come you decided to start your law practice in the United Kingdom?*

SZ: My father was an English qualified solicitor who had established Zaiwalla & Co in Mumbai in 1926. Being the youngest son in the family I decided to follow in my father's footsteps. I trained at an English solicitors firm on Fleet Street in London in the late 70s. I faced several obstacles at the time, but managed to overcome these with honest hard work and tenacity. I was strongly advised by many to anglicize my name when I arrived in the UK. However, I resisted this and it has paid off. In fact, retaining my Indian name was an advantage because I later found that many others who had anglicized their names were not respected by the local community.

AX: *Where you the first non-white lawyer to start law practice in London? When did you start your legal practice in the UK?*

SZ: Yes, I was the first Asian to start a solicitors firm in the City of London. I was advised by an eminent International Maritime arbitrator late Cedric Barclay that as an English solicitor of Indian origin I would never progress at an English firm and the best thing to do would be to set up on my own. At the time this was quite an unusual step for someone of Indian origin to take. In 1982 I started my own small law firm - Zaiwalla & Co Solicitors - on Chancery Lane in the heart of the

legal district of the City of London. The then sitting Chief Justice of India, Mr. Justice Chadrachud, formally inaugurated my firm's office in Chancery Lane. I was fortunate enough to have been appointed the Indian High Commission's solicitor, which gave me entry into the remit of International Shipping Arbitration.

AX: *I understand that you had hired Tony Blair as a Barrister in your firm? When was that?*

SZ: I hired Tony Blair in 1983 for a shipping charterparty dispute which was in arbitration between the Government of India and the owners of an ocean going vessel called "La Pintada" I did not find his preparation satisfactory and I had to later remove him from this case. Incidentally the only time Tony Blair's name appears in the law reports is this case and the English High Court judgment is reported in (1983) lloyds law report at page 38. The issue in the La Pintada case was whether Indian Government was liable to pay compound interest on the late payment of freight and demurrage for the vessels which the government had chartered to carry wheat from U.S.A to the Indian ports. This was a test case for Indian Government and over USD 10 million was at stake for Indian Government. In those years Indian Government was chartering over 300 vessels annually to bring food grains into India. My firm had to take this case right up to the House of Lords to succeed and which was also the first ever success for an Indian case in the House of Lords after India's independence.

AX: *Mr. Sarosh, your law firm specialized in maritime law. But you have represented many governments and big names from India and rest of world in international matters. According to you what in you attracted these big names to you? Can you tell me some of the major names that come to your mind?*

SZ: My firm graduated from initially being a maritime law firm to handling other International cases. Integrity and commitment for client's cases has proved to be the real hallmark for our success. We listen to what a client has to say and then formulate a case strategy that is based on accurate information supplied by client, and the most trusted legal practices. I have been very lucky during my career to have worked on some really interesting and landmark cases.

Amongst the many interesting cases that comes to my mind is our success for Bank Mellat, Iran's largest private bank, a case which we took over mid-stream for a large English firm after the clients had lost and which we successfully fought and won the case in the UK Supreme Court. The Supreme Court held that sanctions placed on Bank Mellat by the UK Government were both unlawful and irrational. The case is a very interesting one in that it raises issues about the dubious nature of 'secret courts', whereby not all parties have access to all the trial information. As well as huge potential costs to the taxpayer, the case has raised serious concerns about the way legal challenges in the British and European Courts are undermining sanctions against Iran. As a consequence of our success in the Supreme Court for Bank Mellat, this Iranian bank is now claiming damages of USD 4 billion in the English Court against the UK government.

Another landmark case was that of Shah versus the banking giant HSBC. We had successfully represented the Claimant Mr. Shah in a USD 330 million case against HSBC, which involved consideration, for the first time by the English Courts, of whether an innocent customer can test in Court a bank's claim that it had suspicions of money laundering which caused it to freeze its

own customer's account. This was a 'landmark judgment', before which banks and law firms 'could act on a hunch about a client's transactions without disclosing the necessary information'. This judgment has far reaching implications for banks, as the Court in this case has for the first time ruled that the banks are now accountable for their conduct in reporting suspicions of money laundering.

AX: *When did you shift your focus from litigation to Alternative Dispute Resolution?*

SZ: I have from the start been primarily involved in International Arbitrations. Over the years I have been involved in over 1200 International Arbitration cases in London and worldwide either as Solicitor, Counsel or Arbitrator. I am regularly appointed by the office of the President of the English Law society to act as Sole Arbitrator for International Arbitration cases where the Arbitration agreement provided the President to appoint Arbitrator.

AX: *I have heard that you had represented an arbitration matter, which was the highest-ever amount awarded by the Permanent Court of Arbitration at The Hague. Can you tell me more about that?*

SZ: I was recently consulted by the Russian Federation in respect of an award given by the Permanent Court of Arbitration at The Hague against Russian Government of EUR 50 billion in favor of the previous Yukos shareholders. The Russian came to me to suggest what they called "out of box" ideas on challenging this Award in the Dutch Court.

AX: *Now the Government of India is planning to open up the legal sector and foreign law firms are eagerly waiting to open up their offices in India. Do you think this is a good step?*

SZ: Yes, I welcome this news. I feel that for a long time the Indian legal sector was quite insular and inward looking, and monopolized by a few long established firms who work on old imperialist model. This rigid structure did not help the legal industry in India, as it made it quite closed off from the global legal market, and this in turn affected the free flow of business, labor and intellectual capital into the country. Opening up the legal profession to overseas firm will open up the upper strata of the legal profession the young Indian talented lawyers.

INTERESTED TO CONTRIBUTE ARTICLES ?

We would like to have your contributions. Articles should be in English. Please take care that quotations, references and footnotes are accurate and complete. Submissions may be made to the Journals Division, Indian Institute of Arbitration & Mediation, G-254, Panampilly Nagar, Cochin - 682 036 or editor@arbitrationindia.com.

Publication of the Article will be the discretion of IIAM and submissions made indicates that the author consents, in the event of publication, to automatically transfer this one time use to publish the copyrighted material to the publisher of the IIAM Journal.

AX: *It is often said it takes a lot of money to get justice. Will the entry of foreign law firms escalate the cost of justice?*

SZ: This is an incorrect perception. It is well known that the upper strata cream of lawyers in India often charge more as their legal fees than lawyers overseas. They are the ones who most fear entry of overseas firm because of competition they will have to meet which in turn will cause them to reduce their fees. Competition is always good and brings out the best for local Indian clients and the legal fees they have to pay. We are now living in a global world and entry of foreign law firm will be very positive for India in two respects – firstly it will allow Indian lawyers an opportunity to place an Indian footprint on international legal system which I believe is needed; secondly, overseas law firms will be introducing a higher internationally accepted standard into Indian legal system.

AX: *The global arbitration community often says arbitration is different in India and rest of the world. To overcome this criticism the Arbitration Act is being amended based on the recommendation of the Law Commission of India, do you think just by amending the law, the arbitration process and culture in India can be improved or is there anything further that we need to do for improving it?*

SZ: Change in the law is a step in the right direction. A society needs to be driven by the law and, in turn, needs to be enshrined in law – this is the only way that it can and will be adhered to. However, the real problem for India to focus is on the international perception of the low standing quality of International Arbitration which has seats in India. This perception whether true or not needs to be recognized and steps be taken to effectively cure this perception. The strength of the chain is its weakest link. Even if one arbitrator is found to be lacking integrity it reflects on the whole arbitration community. The effective way to deal with this is for the arbitration community in India to ensure by self-regulation rules and practice that an Arbitrator against whom there is a shadow of diminishing integrity is routed out from the system. Another criticism which one hears from time to time is the monopoly of the retired Judges to act as arbitrators. The Judges then conduct the arbitration as per the Court process which causes lengthy delay. This also needs to be cured.

AX: *Being a member of the International Court of Arbitration of the ICC Paris and also a CEDR Accredited Mediator, what are your views in creating professionalism in the ADR (Arbitration Dispute Resolution) sector in India?*

SZ: It was a great experience to represent India on the International Court of Arbitration of the ICC, Paris. One of the noticeable factors when the draft awards came to the Court for approval was the number of dissenting decisions from the Arbitrator appointed by a party from a developing country. A dissenting opinion of one Arbitrator has no value in so far as enforcement by the Court of award is concerned. The lesson I learned from this is that very often Indian parties appoint a retired Indian Judge as an Arbitrator who is not able to communicate effectively with his two other Co-Arbitrators. This causes a prejudice to his appointers. I personally had this experience when I was sitting as a Co-Arbitrator in London with a retired Chief Justice of India and the third Arbitrator who was a retired Chief Justice of the European Court of Justice. The Indian Chief Justice had a complete breakdown of communication with the Chairman of the

Tribunal and stopped talking with the Chairman. This would not have happened if care was taken to ensure that the Arbitrator appointed by the Indian party has the ability to ensure that during deliberation after the hearing that his Indian appointer's case is fully considered by his Co-Arbitrators.

AX: *Do you think the dispute resolution evolution has travelled from litigation to arbitration and from there to mediation? Is this because justice is rendered effectively in mediation or because it is the natural cultural evolution that when people get empowered they would like to take charge of decision making rather than delegating it to a third party to impose the decision on them?*

SZ: Mediation is now a growing trend in both Court litigation and arbitration. However for the mediation to take place, both parties must agree. Statistics show that where there is a mediation before a qualified CEDR (Center for Effective Dispute Resolution) 90% of cases are settled during mediation and the majority of the remaining 10% are settled by the end of the following year and very few go to trial. A qualified mediator will conduct a mediation in such a way that he/she will get both parties thinking on the merits of resolving the dispute without giving any advice to either party on the merits of their case. So mediation is to be welcomed.

AX: *How do you rate the efforts of the Indian Institute of Arbitration & Mediation (IIAM) in creating efforts to promote institutional arbitration and mediation in India and also certify mediators in India to global standards under the norms of the International Mediation Institute (IMI), The Hague?*

SZ: If I am to be frank, IIAM's efforts as yet to have an effect on the change of prejudicial perception of alternative dispute resolution system in India. But IIAM must not give up and I am sure in due course they will succeed in bringing about a very high international standard to promote institution arbitration and mediation in India and to certify mediators in India of global standards.

Quotes of the month.....

OUT OF THE BOX

THINK About It

The Tale of the Two Seas

As you may know the Dead Sea is really a Lake, not a sea. The salt in the Dead Sea is as high as 35% - almost 10 times the normal ocean water. And all that saltiness has meant that there is no life at all in the Dead Sea. No fish. No vegetation. No sea animals. Nothing lives in the Dead Sea – And hence the name: Dead Sea.

The Sea of Galilee is just north of the Dead Sea. Both the Sea of Galilee and the Dead Sea receive their water from river Jordan. And yet, they are very, very different. Unlike the Dead Sea, the Sea of Galilee is pretty, resplendent with rich, colourful marine life. There are lots of plants. And lots of fish too. In fact, the Sea of Galilee is home to over twenty different types of fishes.

Same region, same source of water, and yet while one sea is full of life, the other is dead.
How come?

The River Jordan flows into the Sea of Galilee and then flows out. The water simply passes through the Sea of Galilee in and then out - and that keeps the sea healthy and vibrant, teeming with marine life. But the Dead Sea is so far below the mean sea level, that it has no outlet. The water flows in from the river Jordan, but does not flow out. There are no outlet streams. It is estimated that over 7 million tons of water evaporate from the Dead Sea every day leaving it salty, too full of minerals and unfit for any marine life.

The Dead Sea takes water from the River Jordan, and holds it. It does not give. Result? No life at all. Think about it.

Life is not just about getting. It's also about giving. We all need to be a bit like the Sea of Galilee. We are fortunate to get wealth, knowledge, love and respect. But if we don't learn to give, we could all end up like the Dead Sea. The love and the respect, the wealth and the knowledge could all evaporate. Like the water in the Dead Sea. If we get the Dead Sea mentality of merely taking in more water, more money, more everything the results can be disastrous.

It is a good idea to make sure that in the sea of your own life, you have outlets. Many outlets - for love and wealth - and everything else that you get in your life. Make sure you don't just get, you give too. Open the taps. And you'll open the floodgates to happiness. Make that a habit. To share, to give and experience life!

Brain Teasers

Answer to this problem is based on your imaginative judgment. A feudalist king has 4 bottles of wine. He is hosting a party in next one hour. As the guests are about to arrive, it was found that one of the bottles is poisonous, and even if a single drop of it is consumed, though the person behaves normally for the first hour, suddenly could collapse and die exactly after one hour. He would be normal without any symptoms till then. The king had some prisoners to be hanged next day. He can call 4 among them and ask them individually to drink "one drop" from each bottle. One of them would die after one hour and thus he can find out the adulterated bottle before the arrival of his guests. But the king wants to experiment with minimum number of prisoners on this job. With how many minimum numbers of prisoners he can locate the poisonous bottle?

[Answer at Page 15]

A man and woman had been married for more than 60 years. They had shared everything. They had talked about everything. They had kept no secrets from each other except that the little Old woman had a shoe box in the top of her closet that she had cautioned her husband never to open or ask her about.

For all of these years, he had never thought about the box, but one day the little old woman got very sick and the doctor said that she would not recover. In trying to sort out their affairs, the little old man took down the shoe box and took it to his wife's bedside. She agreed that it was time that he should know what was in the box. When he opened it, he found two knitted dolls and a stack of money totaling $95,000.

He asked her about the contents.

'When we were to be married', she said, 'my grandmother told me that the secret of a happy marriage was to never argue. She told me that if I ever got angry with you, I should just keep quiet and knit a doll.'

The little old man was so moved; he had to fight back tears. Only two precious dolls were in the box. She had only been angry with him two times in all those years of living and loving. He almost burst with happiness.

'Honey', he said, 'that explains the dolls, but what about all of this money? Where did it come from?'

'Oh', she said, 'that's the money I made from selling the dolls.'

NEWS & EVENTS

AMENDMENTS TO THE INDIAN ARBITRATION ACT

The Union Cabinet chaired by the Prime Minister of India gave its approval for amendments to the Arbitration and Conciliation Bill, 2015 taking into consideration the Law Commission's recommendations and suggestions received from stake holders. The Government of India has decided to amend the Arbitration and Conciliation Act, 1996 by introducing the Arbitration and Conciliation (Amendment) Bill, 2015 in the Parliament.

SIMC SIGNS MOU WITH IIAM

The Singapore International Mediation Centre signed a Memorandum of Understanding with the Indian Institute of Arbitration & Mediation on 10th September 2015 at Bangalore India, pledging to, among other things, continue in their cooperation to promote commercial mediation in India. The MOU was signed by SIMC Chairman, Edwin Glasgow QC and IIAM President, Anil Xavier. Eunice Chua of SIMC and George Poothicote of IIAM were present during the ceremony. A mediation seminar was also conducted by SIMC partnering with IIAM and the Centre for Advanced Mediation Practice (CAMP), Bangalore.

MEDIATION ON THE RISE IN UK

In the bulletin on legal aid statistics for the second quarter of 2015, the Ministry of Justice, UK reports a 33 per cent increase in the number of times families at loggerheads began mediation, when compared to the same period last year and close to two thirds (64 percent) of completed mediations resulted in a successful outcome.

Upcoming Training Programs from IIAM

COMMERCIAL MEDIATION TRAINING PROGRAM

Are you interested to become a Commercial Mediator or a specialist Dispute Resolution Practitioner or Advocate? Effective conflict resolution skills is the key to prevent destructive conflict, enabling lawyers and consultants to better assist their clients in business deals and disputes. Mediation has become a truly global profession, earning international recognition. IIAM Mediation Training Program combines the theory of ADR through highly interactive, skill-based courses in negotiation and mediation. The training offers the opportunity to become an effective negotiator, skillful mediator and a talented mediation representative. As per IIAM Mediator Accreditation System, a candidate having successfully completed Mediation Training Program is categorised as Grade B Mediator. The program will be for 40 hours conducted in 5 days, during February 8-12, 2016 (Monday to Friday) at Cochin, Kerala, India.

PROFESSIONAL CERTIFICATE IN COMMERCIAL ARBITRATION

The course offers the participants to know the underlying theory of arbitration law and practice, with emphasis on drafting of arbitration clauses and agreements, awards, procedure of arbitration, important case laws, ethical issues and institutional arbitration methods. The program will also look at the art of drafting dispute resolution clauses appropriate to the parties' business needs and dispute resolution desires. The program will provide a solid foundation in ADR processes and to serve as ADR practitioners and neutrals. After successful completion, the participant will be eligible for empanelment as an IIAM Arbitrator, subject to the norms of enlistment. The program will be for 15 hours conducted in 2 days, during December 11-12, 2015 at Cochin, Kerala, India.

For further details log on to http://www.arbitrationindia.org/htm/events.html.

Brain Teaser: With 2 minimum prisoners, the wrong bottle can be identified. Let us name the prisoners A and B. A consumes a drop of drink from Bottle 1. Same way B consumes from bottle 2. Then both A and B consume from bottle 3. Now you might have understood the equation. If A dies, bottle 1, if B dies bottle 2, if both A and B die bottle 3, and fortunately if nobody dies bottle 4 is spurious.