

# **Session 1**

## **Fundamentals and Scheme of Arbitration : Setting the context**

### **Tracing the History of Arbitration in India**

11.03.1940 Arbitration Act, 1940

(Act 10 of 1940)

Came into force on 01.07.1940

16.08.1996 The Arbitration and Conciliation Act, 1996  
(Act 26 of 1996)

Came into force on 22.08.1996

Vide Section 85 *inter-alia* repealed the 1940 Act.

Major shift was arbitral award is now per se a decree of the Court without the need to file it into Court and get the sanctity of the decree.

UNCITRAL model law is the basis.

31.12.2015      Arbitration and Conciliation (Amendment)  
                         Act, 2015 (Act 3 of 2016)

Came into force with retrospective effect from 23.10.2015

09.08.2019      Arbitration and Conciliation (Amendment)  
Act, 2019 (Act 33 of 2019)

**Conditional legislation - only 11 out of 16 provisions came into  
force on 30.08.2019**

11.03.2021      Arbitration and Conciliation (Amendment)  
Act, 2021 (Act 3 of 2021)

Came into force with retrospective effect from 04.11.2020.

## **Major amendments in Act 3 of 2016 :**

- Scope of challenge to a award restricted by codification.
- Time frame fixed for pre Arbitration Section 9.
- Term 'Chief Justice' replaced by Supreme Court / High Court.
- Section 17 giving power to Arbitral Tribunal to make interim orders vastly expanded and it is almost similar to section 9.

## **Major amendments in Act 33 of 2019 :**

- Time line fixed for arbitration (Statement of claim and defence) by insertion in Section 23.
- Scope of section 11 vastly restricted.



## **Major amendments in Act 3 of 2021 :**

- Fraud and corruption added as proviso to section 36 qua arbitration agreement and award made as a ground for grant of unconditional stay pending section 34 challenge.
- Accreditation of arbitrators qua Eighth Schedule done away and left to regulations. Interestingly, Section 43J itself is not kicked in. In other words, Section 43J brought in by Act 33 of 2019 never saw the light of the day.