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LEGAL ISSUES IN INDIAN AVIATION SECTOR

-SAINATH GANDOLKAR

INTRODUCTION

India's civil aviation sector has expanded rapidly in recent decades, necessitating a robust legal framework blending international treaties and domestic statutes. Under the Chicago Convention (1944) India recognises state sovereignty over airspace and adheres to ICAO safety standards, while the Montreal Convention (1999) governs liability for international carriage. Domestically, India's aviation law historically rested on the Aircraft Act, 1952 (recently replaced) and related legislation, which established regulators like the DGCA, AAI and BCAS. This introductory framework provides the basis for addressing regulatory, safety and consumer issues.

DOMESTIC LEGAL FRAMEWORKS

India's core air laws were recently overhauled. The Bharatiya Vayuyan Adhiniyam, 2024 (Act No. 16 of 2024) – effective 1 January 2025 – repealed the old Aircraft Act and consolidated rules on aircraft design, manufacture, maintenance and operationsⁱ. This modern statute aligns Indian rules with ICAO standards and streamlines licensing and appeals. Alongside, Parliament enacted the Protection of Interests in Aircraft Objects Act, 2025 (Act No. 17 of 2025) to implement the 2001 Cape Town Convention on aircraft financeⁱⁱ. Key pre-existing statutes include the Carriage by Air Act, 1972 (which implements the Warsaw/Montreal liability regime)ⁱⁱⁱ, the Civil Aviation Act, 1982^{iv}, the Airports Authority of India Act, 1994^v, the Anti-Hijacking Act, 2016^{vi} and the Consumer Protection Act, 2019^{vii}. These laws empower regulators such as the DGCA, BCAS, AAI and AERA^{viii}. The DGCA issues binding Civil Aviation Requirements (CARs) on safety, maintenance and operations, and is now being designated as India's international aircraft registry under the new law.

In addition to aviation-specific laws, carriers and airports are subject to general statutes. For example, environmental compliance is governed by India's Environment (Protection) Act,

1986 and related rules; courts apply principles like the “polluter pays” doctrine to aviation emissions and noise, and airport projects require environmental clearances^{ix}. Consumer protection is administered under the Consumer Protection Act, 2019 and the DGCA’s Air Passengers Charter (2019)^x. Thus, the domestic framework includes a mix of sectoral acts (now modernised by the Bharatiya Vayuyan Adhiniyam), regulatory rules, and general statutes on environment and consumer rights.

INTERNATIONAL LEGAL FRAMEWORKS

India is a party to all major international air law conventions. Under the Chicago Convention (1944), of which India was a founding member on 1 March 1947, India is bound by ICAO standards for safety, navigation and crew licensing^{xi}. India ratified the Montreal Convention (1999) on international carriage of passengers and cargo in 2009 (enacting implementing legislation in 2009)^{xii}. Other conventions in force include the Warsaw/Hague regime, the Tokyo Convention (1963), the Hague Convention (1970), and the 2001 Cape Town Convention. India’s bilateral air services agreements govern traffic rights and market access with individual countries. Internationally, India also participates in ICAO’s environmental initiatives, notably the CORSIA offsetting scheme for aviation CO₂^{xiii}.

KEY LEGAL ISSUES

(i) Safety and Accident Liability: Ensuring safety and handling accidents are perennial concerns. India’s Aircraft Accident Investigation Bureau (AAIB, established 2011) investigates serious accidents under ICAO norms^{xiv}. The recent Air India 787 crash from Ahmedabad (June 2024) – the deadliest in India in decades, killing all 260 on board – has focused attention on enforcement of safety rules^{xv}. A public interest petition filed in mid-2025 asks the Supreme Court to ground all Air India Boeing 787s pending an audit, alleging DGCA oversight failures^{xvi}. Families of crash victims are pursuing compensation under the Montreal Convention’s strict-liability regime. Under Article 21 of Montreal, the carrier’s liability for death or injury is limited to 100,000 Special Drawing Rights (approx. ₹1.5–1.8 crore) per passenger^{xvii}; additional damages require proof of negligence. Indian courts have awarded larger sums in practice: in *Trivedi Kodkany v. Air India* the Supreme Court upheld a ₹7.64 crore award to the heirs of a deceased passenger (applying the income-multiplier method from Pranay Sethi guidelines)^{xviii}. Third-party damages fall outside Montreal and must be pursued under general tort law. Airlines typically settle immediately: the Tata Group (Air India’s owner) has announced ₹1 crore interim payments per victim^{xix}.

(ii) Unmanned and Emerging Technologies: Civil drones (UAVs) are regulated under the 2021 Drone Rules, which largely replaced earlier UAS regulations^{xx}. These rules adopt a “trust-based” self-certification model: most drones now only require online registration and pilot certification, and airspace is zoned (green/yellow/red) with simplified approvals^{xxi}. In practice, drones must comply with DGCA/BCAS safety requirements. Another frontier is artificial intelligence and autonomy: advances in autonomous aircraft raise novel liability questions. Traditional negligence law presumes human error, but if an AI software error causes a crash, liability may resemble a products-liability regime^{xxii}. Legal analysts note that purely autonomous “decisions” lack human volition, shifting focus to design and data liability. India’s current laws do not yet explicitly address autonomous passenger flights, though existing UAS rules cover limited automated functions^{xxiii}.

(iii) Human Factors (Fatigue) and Security: Crew fatigue is increasingly recognised as a safety risk. ICAO defines fatigue as “a physiological state of reduced mental or physical performance” that can impair safety, and studies link fatigue to ~20–25% of major accidents^{xxiv}. The DGCA in late 2022 proposed stricter flight- and duty-time rules (with phased implementation from 2025) to enhance rest periods for pilots^{xxv}. For example, as of July 2025 pilots’ minimum weekly rest is set to rise from 36 to 48 hours. Airlines are adopting Fatigue Risk Management policies. On the security side, India’s laws criminalise unlawful interference: the anti-hijacking and related statutes impose severe penalties for in-flight violence^{xxvi}. BCAS enforces security audits, and airlines may enforce no-fly orders against unruly passengers, provided due process is observed.

(iv) Passenger Rights and Liability: In the absence of an EU-style compensation regime, passenger rights are governed by the Montreal Convention and domestic consumer law^{xxvii}. Under Montreal, carriers are strictly liable for passenger injury/death up to the statutory limit^{xxviii}. India’s 2014 notification converted that limit to roughly ₹20 lakh. Carrier may still be sued for additional damages if negligence is proven. Baggage and delay claims carry lower caps. For domestic flights, there is no similar cap – instead, the DGCA’s Passenger Charter (2019) and the Consumer Protection Act provide remedies for denied boarding, cancellations or unfair fares^{xxix}. Claims of unfair trade practices are common. So far India has not seen landmark passenger-damages cases under these laws. Court decisions reflect general contract and tort principles, and the Constitution’s guarantee of life has been invoked to enforce safety and environmental protections.

RECENT DEVELOPMENTS

The last two years have seen major legislative and policy changes. As noted, the Bharatiya Vayuyan Adhiniyam, 2024 took effect in 2025, modernising the regulatory regime^{xxx}. In April 2025 Parliament also passed the Protection of Interests in Aircraft Objects Act, 2025, giving domestic effect to the Cape Town Convention and creating an Aircraft Registry (administered by DGCA)[11]. On the policy front, the 2016 National Civil Aviation Policy remains in force. High-profile incidents are influencing legal focus. In response to the Ahmedabad Dreamliner crash, regulators have announced new rules for airport safety and accelerated audits of airline training and maintenance. Meanwhile, a parliamentary committee has recommended consumer-protection reforms: notably an AI-driven “AirPrice Guardian” system to monitor airfares and empower DGCA with quasijudicial price-control powers.

CONCLUSION

India’s aviation law is grounded in classic treaty obligations^{xxxii} (e.g. Chicago and Montreal) and an evolving domestic code. Its legal infrastructure is maturing, but gaps remain. Experts note the need for clearer statutory passenger-rights rules and stronger environmental safeguards at airports. New challenges – decarbonisation commitments, supersonic flight, urban air mobility – will demand further reforms. Continued adaptation and enforcement will be essential to keep pace with India’s fast-growing aviation sector.

ENDNOTES

ⁱ Bharatiya Vayuyan Adhiniyam, No. 16 of 2024 (India) (effective Jan. 1, 2025).

ⁱⁱ Protection of Interests in Aircraft Objects Act, No. 17 of 2025 (India) (effective May 1, 2025).

ⁱⁱⁱ Carriage by Air Act, No. 57 of 1972 (India) (as amended 2009).

^{iv} Civil Aviation Act, No. 60 of 1982 (India).

^v Airports Authority of India Act, No. 55 of 1994 (India).

^{vi} Anti-Hijacking Act, No. 28 of 2016 (India).

^{vii} Consumer Protection Act, No. 35 of 2019 (India).

^{viii} Nitin Sarin & Co., *Comparative Guide: Aviation Regulation in India*, Ch. 1 (Sept. 2024) [overview by regulatory consultancy].

^{ix} Poonam Dwivedi, *Navigating the Skies: An Overview of Aviation Law in India*, 5 Int’l J. Multidisciplinary Research (IJFMR) 1 (2023)

^x Ministry of Civil Aviation, *Rights of Air Travellers: Air Passenger Charter* (Aug. 2019).

^{xi} Convention on International Civil Aviation, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295 (entered into force Apr. 4, 1947).

^{xii} Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention), May 28, 1999, 2242 U.N.T.S. 309 (entered into force Nov. 4, 2003).

^{xiii} Sahibpreet Singh, Lalita Devi, LEGAL FRAMEWORK, CHALLENGES AND CONSTITUTIONAL IMPLICATIONS IN AVIATION

^{xiv} Supranote-9

^{xv} Charu Singh, *Ahmedabad Plane Crash: Air India May Face These Court Cases Going Ahead*, NDTV Profit, June 13, 2025.

^{xvi} Ibid

^{xvii} Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention), May 28, 1999, 2242 U.N.T.S. 309 (entered into force Nov. 4, 2003).

^{xviii} Trivedi Kodkany v. Air India, (2022) SCC OnLine Bom 927.

^{xix} Supranote-15

^{xx} Press Trust of India, *Parliamentary panel suggests AI-driven stringent airfare regulation mechanism, more teeth to DGCA on pricing*, *Econ. Times* (Mar. 26, 2025)

^{xxi} Ibid

^{xxii} Samidha Shekhar and Nandha Krishnan Rajendra Prasad, *Uncharted Skies of Liability : AI's Role in Reshaping Aviation Accident Jurisprudence for Autonomous Aircraft Era*, 2024 SCC OnLine Blog OpEd 10

^{xxiii} Ibid

^{xxiv} Agrani Bhati and Aditya Singh, *Pilot Fatigue: Latent Cause of Aviation Accidents*, 2024 SCC OnLine Blog OpEd 16

^{xxv} Ibid

^{xxvi} Anti-Hijacking Act, No. 28 of 2016 (India).

^{xxvii} Supranote-17

^{xxviii} Ibid

^{xxix} Ministry of Civil Aviation, *Rights of Air Travellers: Air Passenger Charter* (Aug. 2019).

^{xxx} Bharatiya Vayuyan Adhiniyam, No. 16 of 2024 (India) (effective Jan. 1, 2025).

^{xxxi} Press Trust of India, *Parliamentary Panel Suggests AI-Driven Airfare Regulation Mechanism*, *Economic Times* (India), Mar. 26, 2025.