

Merchant Shipping (Amendment) Act, 2002

Section 19 - Amendment of Section 352c

In section 352C of the principal Act,-

- (a) in the marginal heading, the words "against owner" shall be omitted;
- (b) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Where any liability is alleged to have been incurred by a person referred to in sub-section (1) of section 352A in respect of claims arising out of an occurrence, and legal proceedings are instituted in respect of claims subject to limitation, then such person may apply to the High Court for the setting up of a limitation Fund for the total sum representing the amounts set out in the Convention or the rules made in this behalf under this Part applicable to claims for which that person may be liable together with interest thereon from the date of occurrence giving rise to the liability until the date of the constitution of the Fund.";

- (c) in sub-section (2), for the words beginning with the words "or furnish" and ending with the words "or secured", the words "or produce a guarantee acceptable or produce a bank guarantee in respect of the amount as in the opinion of the High Court is satisfactory and the amount so deposited or guarantee so given" shall be substituted;

- (d) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:-

"(5) Where the person referred to in sub-section (1) or his insurer establishes that he has paid in whole or in part any claims in respect of which he can limit his liability under this Part, the High Court shall place him in the same position and to the same extent in relation to the Fund as the claimant whose claim has been paid and allow to acquire by subrogation the rights which the 30 person so compensated would have enjoyed under this Part:

Provided that the right of subrogation provided for in this sub-section may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they might, have paid to that extent if prescribed by the rules made in this behalf under this Part.

(6) Where the person liable or any other person has established that he may at a later date be required to pay in whole or in part, any of the claims under this Part, which could be settled from the Fund, the High Court may notwithstanding the foregoing provisions of this section order that a sufficient sum may be provisionally set aside for the purpose to enable the person to enforce his claim against the Fund at a later date in accordance with the provisions of sub-section (5)."