
PUBLICATION

Dispute Resolution Mechanism for Construction Contracts

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Introduction

Dispute resolution mechanisms for construction contracts play a very important role in making sure that commercial and infrastructure projects move forward in an efficient manner without any uncertainty.

Construction projects involve multiple parties and several contractual obligations which are dependent on each other. As a result, even a small issue or misunderstanding can delay and disrupt the entire project, leading to costly disputes.[1]

In India, there are around 152,000 crores worth of unresolved construction claims which still remain pending. [2] This creates a significant financial burden for businesses as well as government authorities.[3]

Due to this, more parties now prefer alternative dispute resolution methods, such as negotiation, mediation, conciliation and arbitration instead of moving to courts.[4]

These mechanisms help resolve disputes in a more efficient manner, while maintaining confidentiality and allowing the parties to protect their commercial relationships.

Common Causes of Construction Disputes

Construction disputes often arise because every stage of the project depends on the proper completion of the previous one.[5] Even a small delay or issue in performing an obligation can impact the entire project.

Some of the most common causes of construction disputes are:

• **Unclear terms of contract:** If the clauses under the contract are drafted in an unclear manner or if the scope of work is left undefined, the parties may interpret their responsibilities differently, which can lead to issues later.[6]

• **Project delays:** If there is delay in obtaining the approvals, granting extension of time or completion of the project, disagreements can arise as to who shall be held responsible and whether the compensation would be payable.[7]

• **Escalation of costs and payment disputes:** Late payments, disagreement over variations and increasing project costs are the most common causes of construction disputes.[8]

• **Quality issues:** Inefficient workmanship, use of low-quality materials and poor coordination between the contractors, subcontractors, consultants and employers leads to intense disputes and can make existing disagreements even more difficult to resolve.[9]

Understanding the main reason behind a dispute allows the parties to choose the most appropriate way to resolve it.[10]

It also reduces legal risks, protects business relationships and effectively leads to timely completion of the project.

ADR Mechanisms for Resolving Construction Disputes

An effective dispute resolution mechanism for construction contracts helps parties settle disagreements without going through lengthy court proceedings.

In India, alternative dispute resolution has become the preferred option chosen by the parties because it is faster, confidential and well suited to the technical nature of the construction projects.[11]

Negotiation

Negotiation is usually the first step when it comes to resolving a construction dispute. Parties discuss the dispute with each other directly and in an informal manner to try and reach a mutually accepted solution.[12]

Trying to resolve disagreements at an initial stage prevents minor issues from becoming costly legal disputes.

Mediation and Conciliation

Mediation and Conciliation are voluntary methods of resolving disputes with the help of a neutral third party. [13]A mediator facilitates the discussions between the parties, and a conciliator under the Arbitration and Conciliation Act, 1996[14] proposes the settlement terms to assist the parties in resolving the dispute.[15]

Arbitration

Arbitration is one of the most widely used methods of dispute resolution when it comes to resolving construction disputes.[16]

The parties can appoint an arbitrator with necessary technical expertise. The decision of the arbitrator is legally binding and the process remains confidential and private.[17]

Multi-Tier Dispute Resolution Clause

Construction contracts in today's world require the parties to attempt negotiation or mediation before moving towards arbitration.

These clauses encourage an early settlement to reduce any disruption in the project and preserve commercial relationships.[18]

Legal Framework Governing Construction Disputes in India

The dispute resolution mechanism for construction contracts in India is governed by a proper legal framework that combines contract law, arbitration and other legal remedies.

This helps the parties in resolving disputes efficiently while protecting their rights and ensuring certainty throughout the project.

The Arbitration and Conciliation Act, 1996 is the primary law governing arbitration and conciliation in India. It is based on the UNCITRAL Model Law,[19]and it allows the parties to choose the arbitrators with the required technical knowledge. It also ensures that the arbitral award is legally binding.

Sections 73 and 74 of the Indian Contract Act, 1872[20]deals with the compensation when the contract is breached by either of the parties.

Section 73 allows the parties to recover losses arising from a breach of the contract, while Section 74 allows courts and arbitral tribunals to award reasonable compensation where the contract specifies an amount payable in case of breach, including a liquidated damages clause, a clause that fixes the amount of compensation in advance.

The Specific Relief (Amendment) Act, 2018[21]introduced important changes when it comes to enforcement of the contracts. It recognises substitute performance, allowing the parties to have the contractual obligation performed by somebody else and limits certain injunctions which unnecessarily delay infrastructure projects.

In complex projects, Dispute Adjudication Boards (DABs) and technical experts also assist by resolving the technical issues, evaluating claims for delay and helping projects continue with efficiency.

Conclusion

A strong dispute resolution mechanism for construction contracts is essential in ensuring that the projects remain on track while avoiding any unnecessary delays or unending court proceedings.

Construction disputes usually involve multiple parties and complex contractual obligations, which makes early resolution essential for everyone involved.

A well-drafted dispute resolution clause gives the parties a clear pathway to resolve the disputes through negotiation, mediation, conciliation and arbitration.

These mechanisms provide outcomes in an efficient manner, maintain confidentiality and help in preserving long-term relationships. Arbitration, supported by the Arbitration and Conciliation Act, 1996, remains an important method for resolving construction disputes due to its flexibility and specialised expertise.

With increasing complexity of the project, parties must adopt a proactive approach by properly defining the obligations, including multi-tier dispute resolution clauses and addressing risks at an early stage.

A structured dispute resolution framework is therefore essential for the growth of India's construction sector.

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[2] Construction Industry Development Council, 'Theme 3: Dispute Resolution in Construction Contracts' <https://www.cidc.in/theme3.html> accessed 28 July 2026.

[3] Ibid.

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- [17] Rastogi, 'Dispute Resolving Mechanism in the Construction Industry'.
- [18] Nishith Desai Associates, 'Construction Disputes in India'.
- [19] UNCITRAL Model Law on International Commercial Arbitration (1985), as amended in 2006.
- [20] Indian Contract Act 1872, ss 73–74.
- [21] Specific Relief (Amendment) Act 2018.

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