

EMERGENCY ARBITRATION IN INDIA: NAVIGATING THE CONVERGENCE OF SPEED AND JUSTICE IN COMMERCIAL DISPUTE RESOLUTION

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Abstract

Emergency arbitration represents a paradigmatic shift in India's dispute resolution landscape, offering expedited interim relief before the constitution of full arbitral tribunals. This article examines the evolving jurisprudential framework surrounding emergency arbitration in India, analyzing the landmark Supreme Court decision in *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*, the proposed 2024 amendments to the Arbitration and Conciliation Act, and the implications for India's aspirations as a global arbitration hub. Through doctrinal analysis and comparative jurisprudence, this paper demonstrates that while emergency arbitration has gained judicial recognition, statutory codification remains essential for establishing India's competitive advantage in international commercial arbitration.

Keywords: Emergency arbitration, interim relief, institutional arbitration, commercial disputes, Supreme Court jurisprudence.

I. Introduction: The Imperative of Speed in Commercial Justice

The inexorable acceleration of global commerce has rendered traditional dispute resolution mechanisms inadequate for addressing the urgent need for interim relief in commercial disputes. Emergency arbitration, a procedural innovation that enables parties to obtain expedited interim measures before the constitution of a full arbitral tribunal, has emerged as a critical component of modern dispute resolution architecture. In India, this mechanism has gained particular significance as the nation positions itself as a global arbitration hub, competing with established jurisdictions like Singapore, Hong Kong, and London.

The conceptual foundation of emergency arbitration rests on the recognition that commercial disputes often involve time-sensitive issues where delay in granting interim

relief could render the ultimate arbitral award ineffectual. Unlike traditional court-based interim relief under Section 9 of the Arbitration and Conciliation Act, 1996,¹³⁴⁷ emergency arbitration offers a specialized, expedited process conducted by expert arbitrators familiar with the commercial context of the dispute.

This article examines the current state of emergency arbitration in India, analyzing the judicial recognition accorded to emergency awards, the proposed legislative reforms, and the implications for India's evolving arbitration ecosystem. The analysis demonstrates that while significant progress has been made through judicial interpretation, comprehensive statutory recognition remains crucial for establishing legal certainty and enhancing India's appeal as an arbitration-friendly jurisdiction.

¹³⁴⁷ Arbitration and Conciliation Act, 1996, § 9.

II. Doctrinal Framework and Legislative Evolution

A. Statutory Lacuna and Judicial Innovation

The Arbitration and Conciliation Act, 1996, enacted to align Indian arbitration law with the UNCITRAL Model Law, predates the emergence of emergency arbitration as a recognized procedural mechanism. Section 2(1)(d) of the Act defines an "arbitral tribunal" as "a sole arbitrator or a panel of arbitrators," without specific reference to emergency arbitrators.¹³⁴⁸ This definitional limitation has created a statutory lacuna that courts and practitioners have navigated through creative interpretation.

The 246th Report of the Law Commission of India (2014) recognized this gap, recommending the inclusion of emergency arbitrators within the definition of arbitral tribunals where institutional rules provide for such appointments.¹³⁴⁹ However, when the Act was amended in 2015, this recommendation was not incorporated, leaving the legal status of emergency arbitrators in statutory limbo.

B. The Amazon-Future Paradigm: Judicial Recognition and Its Ramifications

The Supreme Court's decision in *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.* marked a watershed moment in the recognition of emergency arbitration in India.¹³⁵⁰ The case arose from a complex commercial dispute involving Amazon's challenge to Future Group's proposed asset sale to Reliance Industries, seeking interim relief through the Singapore International Arbitration Centre's emergency arbitration procedure.

The Delhi High Court initially recognized the emergency arbitrator's interim order as enforceable under Section 17(2) of the Act, treating it as an interim measure passed by an arbitral tribunal.¹³⁵¹ This interpretation, while

innovative, highlighted the interpretative challenges posed by the absence of specific statutory provisions governing emergency arbitration.

The Supreme Court's eventual endorsement of this approach established crucial precedential value, demonstrating judicial willingness to accommodate procedural innovations that enhance the efficiency of arbitration. The decision effectively recognized that emergency arbitrators, when appointed under institutional rules agreed upon by parties, constitute part of the arbitral tribunal for the purpose of granting interim relief.

III. Institutional Development and International Best Practices

A. Singapore International Arbitration Centre Rules 2025: A Comparative Analysis

The SIAC Rules 2025, which came into effect on January 1, 2025, introduced significant procedural enhancements to emergency arbitration that merit comparative analysis with Indian practices.¹³⁵² The most notable innovation is the provision allowing parties to seek interim relief from an emergency arbitrator even before formal commencement of arbitration, provided the notice of arbitration is filed within seven days.

Additionally, the introduction of Protective Preliminary Orders addresses situations where prior notification of emergency proceedings could frustrate the relief sought.¹³⁵³ Emergency arbitrators must issue orders within 24 hours of appointment, with notification to all parties within 12 hours of the order.

These procedural refinements underscore the evolutionary nature of emergency arbitration and highlight the need for Indian institutions to develop similarly sophisticated mechanisms to compete effectively in the international arbitration market.

¹³⁴⁸ Id. § 2(1)(d).

¹³⁴⁹ Law Commission of India, Report No. 246, Amendments to the Arbitration and Conciliation Act 1996 (2014).

¹³⁵⁰ *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*, 2021 SCC OnLine SC 557.

¹³⁵¹ *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*, 2021 SCC OnLine Del 1031.

¹³⁵² Singapore International Arbitration Centre, SIAC Rules 2025 (effective Jan. 1, 2025).

¹³⁵³ Id. r. 30.2.

B. The Mumbai Centre for International Arbitration and Domestic Innovation

The Mumbai Centre for International Arbitration, established as a flagship institution under the 2019 amendments to the Act, has incorporated emergency arbitration provisions in its rules, demonstrating India's commitment to institutional arbitration.¹³⁵⁴ The MCIA Rules provide for the appointment of emergency arbitrators within 24 hours of a complete emergency application, with decisions required within 15 days.

The Delhi International Arbitration Centre and other domestic institutions have similarly incorporated emergency arbitration provisions, creating a network of institutions capable of administering emergency proceedings.¹³⁵⁵ However, the effectiveness of these mechanisms remains contingent on judicial recognition and statutory clarity.

IV. The 2024 Amendment Bill: Toward Statutory Recognition

A. Proposed Section 9-A: Emergency Arbitration

The Draft Arbitration and Conciliation (Amendment) Bill 2024 represents a significant step toward statutory recognition of emergency arbitration.¹³⁵⁶ The proposed Section 9-A specifically provides for emergency interim measures, allowing parties to seek relief from emergency arbitrators during arbitral proceedings before tribunal constitution.

This provision addresses the interpretative challenges that have plagued emergency arbitration in India, providing clear statutory authority for emergency proceedings. The proposed amendment defines the scope of emergency arbitrator powers, the procedure for appointment, and the relationship between emergency orders and subsequent tribunal proceedings.

B. Enhanced Institutional Powers and Reduced Judicial Intervention

The 2024 Bill also proposes to enhance the powers of arbitral institutions, including the authority to extend time limits for awards, reduce arbitrators' fees in cases of delay, and substitute arbitrators.¹³⁵⁷ These provisions reflect a broader policy shift toward reducing judicial intervention and strengthening institutional arbitration.

The proposed amendments also introduce stringent timelines for judicial decisions, requiring courts to decide applications for referral to arbitration within 60 days and arbitral tribunals to resolve jurisdictional objections within 30 days.¹³⁵⁸ These time-bound procedures align with the urgency inherent in emergency arbitration.

V. Enforcement Challenges and Cross-Border Implications

A. The New York Convention and Emergency Awards

The enforceability of emergency arbitration awards under the New York Convention remains a complex issue.¹³⁵⁹ While the Convention governs the enforcement of arbitral awards, the status of emergency arbitrator decisions as "awards" within the Convention's framework is debated among international practitioners.

Indian courts have demonstrated willingness to recognize emergency awards from foreign-seated arbitrations, as evidenced in the Amazon-Future case.¹³⁶⁰ However, the legal basis for such recognition requires clearer statutory foundation, particularly for emergency awards issued in foreign jurisdictions where Indian parties or assets are involved.

B. Conflict with Section 9 Relief

The relationship between emergency arbitration and court-ordered interim relief under Section 9 presents potential conflicts.¹³⁶¹ While emergency

¹³⁵⁷ Id. § 14-A.

¹³⁵⁸ Id. § 16.

¹³⁵⁹ Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, 330 U.N.T.S. 3.

¹³⁶⁰ Amazon.com NV Investment Holdings LLC v. Future Retail Ltd., 2021 SCC OnLine SC 557.

¹³⁶¹ Arbitration and Conciliation Act, 1996, § 9.

¹³⁵⁴ Mumbai Centre for International Arbitration Rules, r. 29 (2016).

¹³⁵⁵ Delhi International Arbitration Centre Rules, r. 20 (2018).

¹³⁵⁶ Draft Arbitration and Conciliation (Amendment) Bill 2024, § 9-A.

arbitration offers specialized expertise and confidentiality, court orders may carry greater enforceability, particularly against non-parties or in respect of assets outside the arbitration seat.

The proposed amendments attempt to address this by clarifying that emergency arbitrator orders constitute interim measures under the Act, thereby ensuring their enforceability through the same mechanisms available for tribunal orders.¹³⁶²

VI. Artificial Intelligence and the Future of Emergency Arbitration

The integration of artificial intelligence in arbitration proceedings presents both opportunities and challenges for emergency arbitration.¹³⁶³ AI-powered tools can enhance document review, case analysis, and procedural management, potentially reducing the time required for emergency arbitrators to assess applications and issue orders.

The Supreme Court has acknowledged the legitimacy of technology in arbitration, recognizing electronic communications and digital signatures in arbitration agreements.¹³⁶⁴ The proposed 2024 amendments specifically provide for conducting arbitral proceedings through audio-visual electronic means, creating a framework for technology-enhanced emergency proceedings.

However, the use of AI in emergency arbitration raises questions about transparency, bias, and the human element essential to judicial decision-making. As one commentator noted, while practitioners support AI for calculating damages, fewer favor AI drafting the reasoning of awards, highlighting the continued importance of human judgment in arbitral decision-making.¹³⁶⁵

VII. India's Arbitration Hub Aspirations: Global Competition and Local Innovation

A. The Singapore Model and India's Competitive Strategy

Singapore's success as an arbitration hub stems from a combination of legislative innovation, institutional excellence, and judicial support.¹³⁶⁶ The SIAC's handling of emergency arbitration, with its sophisticated procedural rules and efficient administration, sets a benchmark for Indian institutions.

India's strategy must balance emulation of international best practices with innovation suited to its unique legal and commercial context. The establishment of the Arbitration Council of India and the proposed appellate arbitral tribunals represent attempts at institutional innovation that could differentiate India's offering in the global arbitration market.¹³⁶⁷

B. Infrastructure and Capacity Building

The Permanent Court of Arbitration's opening of an office in New Delhi in September 2024 and the launch of the Arbitration Bar of India represent significant infrastructure developments.¹³⁶⁸ These initiatives, combined with the proposed statutory amendments, create a comprehensive framework for establishing India as a premier arbitration destination.

However, success requires not only legal infrastructure but also the development of a skilled arbitrator pool, efficient case management systems, and robust enforcement mechanisms. The proposed amendments' emphasis on institutional capacity building addresses these requirements.

¹³⁶² Draft Arbitration and Conciliation (Amendment) Bill 2024, § 9-A.

¹³⁶³ See generally Artificial Intelligence in Arbitration, SCC Online Blog (Jan. 7, 2025).

¹³⁶⁴ Bharat Sanchar Nigam Ltd. v. Nortel Networks India Pvt. Ltd., (2021) 5 SCC 738.

¹³⁶⁵ Embracing AI in Arbitration: Enhancing Efficiency Without Compromising Justice, SCC Online Blog (Sept. 4, 2025).

¹³⁶⁶ See generally Singapore's Arbitration Ecosystem and Global Competition (2024).

¹³⁶⁷ Arbitration and Conciliation (Amendment) Act, 2019, § 43J.

¹³⁶⁸ Permanent Court of Arbitration Opens New Delhi Office, PCA Press Release (Sept. 15, 2024).

VIII. Challenges and Critical Perspectives

A. Due Process Concerns in Emergency Proceedings

Emergency arbitration's expedited nature inherently limits the opportunity for full due process, particularly in ex-parte proceedings.¹³⁶⁹ The SIAC Rules 2025's provision for Protective Preliminary Orders, which can be issued without prior notice to the opposing party, exemplifies this tension between urgency and fairness.

Indian courts must navigate this balance carefully, ensuring that the recognition of emergency awards does not compromise fundamental principles of natural justice. The proposed statutory framework should incorporate safeguards for subsequent review and modification of emergency orders as full proceedings develop.

B. Cost and Access Considerations

Emergency arbitration, while potentially faster than court proceedings, involves additional costs through institutional fees and expedited arbitrator appointments.¹³⁷⁰ For small and medium enterprises, these costs may be prohibitive, potentially creating a two-tiered system of justice.

The democratization of emergency arbitration requires consideration of sliding fee scales, simplified procedures for smaller disputes, and the development of specialized mechanisms for different categories of commercial disputes.

IX. Recommendations for Legislative and Institutional Reform

A. Comprehensive Statutory Framework

The 2024 amendments represent significant progress, but comprehensive reform should address several additional areas:

Clear Definition: Emergency arbitrators should be explicitly included within the definition of arbitral tribunals, with specific provisions governing their appointment, powers, and the

relationship between emergency orders and subsequent proceedings.

Enforcement Mechanisms: Specific provisions for the enforcement of emergency awards, including procedures for seeking court assistance and mechanisms for challenging emergency orders.

Cross-Border Recognition: Clear guidelines for the recognition and enforcement of foreign emergency awards, balancing international comity with domestic jurisdictional requirements.

Technology Integration: Comprehensive provisions for digital proceedings, AI-assisted case management, and electronic enforcement mechanisms.

B. Institutional Excellence and Best Practices

Indian arbitration institutions should adopt best practices including:

Specialized Emergency Panels: Curated panels of emergency arbitrators with relevant expertise and availability for urgent appointments.

24/7 Case Management: Round-the-clock case management systems to ensure true emergency responsiveness.

Standardized Procedures: Harmonized emergency arbitration rules across major Indian institutions to reduce complexity for users.

Quality Assurance: Regular review and assessment of emergency arbitrator decisions to ensure consistency and quality.

X. Conclusion: Toward an Integrated Emergency Arbitration Ecosystem

Emergency arbitration represents more than a procedural innovation; it embodies the evolution of dispute resolution toward greater efficiency, specialization, and commercial sensitivity. India's journey in recognizing and institutionalizing emergency arbitration reflects broader themes in its legal modernization and economic integration.

¹³⁶⁹ See SIAC Rules 2025, r. 30.2 (Protective Preliminary Orders).

¹³⁷⁰ Singapore International Arbitration Centre, Schedule of Fees (2025).

The Supreme Court's recognition of emergency awards in the Amazon-Future case demonstrated judicial pragmatism and commercial awareness. The proposed 2024 amendments provide the statutory foundation necessary for legal certainty and international competitiveness. However, the ultimate success of emergency arbitration in India depends on sustained commitment to institutional excellence, continuous procedural refinement, and the development of a sophisticated arbitration ecosystem.

As global commerce continues to accelerate and disputes become increasingly complex, emergency arbitration will likely become not just an option but a necessity for effective commercial dispute resolution. India's ability to provide world-class emergency arbitration services will significantly influence its success in becoming a global arbitration hub.

The convergence of speed and justice inherent in emergency arbitration challenges traditional notions of due process while promising more effective dispute resolution. Navigating this convergence requires careful balance, continuous innovation, and unwavering commitment to both efficiency and fairness. India's emergency arbitration framework, as it continues to evolve, must embody these dual imperatives while serving the broader goal of enhancing the nation's commercial dispute resolution capacity.

The path forward requires collaboration among legislators, judiciary, institutions, and practitioners to create an integrated emergency arbitration ecosystem that serves not only India's commercial community but also positions the nation as a leading destination for international arbitration. In this endeavor, emergency arbitration serves both as a specific procedural tool and a symbol of India's commitment to legal innovation and commercial justice.