

CLAIMS PAYABLE IN FOREIGN CURRENCY

In *Renusagar Power Co. Ltd. v. General Electric Co.*, the Supreme Court has discussed all these principles at page 905 in para 120. After referring to the practice which ought to be followed in suits in which a sum of money expressed in a foreign currency can legitimately be claimed by the plaintiff and decreed by the court, has been thus indicated:

...the plaintiff, who has not received the amount due to him in a foreign currency and, therefore, desires to seek the assistance of the court to recover that amount, has two courses open to him. He can either claim the amount due to him in Indian currency or in the foreign currency in which it was payable. If he chooses the first alternative, he can only sue for that amount as converted into Indian rupees and his prayer in the plaint can only be for a sum in Indian currency. For this purpose, the plaintiff would have to convert the foreign currency amount due to him into Indian rupees. He can do so either at the rate of exchange prevailing on the date when the amount became payable for he was entitled to receive the amount on that date or, at his option, at the rate of exchange prevailing on the date of the filing of the suit because that is the date on which he is seeking the assistance of the court for recovering the amount to him. In either event, the valuation of the suit for the purposes of court-fees and the pecuniary limit of the jurisdiction of the court will be the amount in Indian currency claimed in the suit. The plaintiff may, however, choose the second course open to him and claim in foreign currency the amount due to him. In such a suit, the proper prayer for the plaintiff to make in his plaint would be for a decree that the defendant do pay to him the foreign currency cum claimed in the plaint.

For the purposes of court-fees and a jurisdiction, (he plaintiff should, however, value his claim in the suit by converting the foreign currency sum claimed by him into Indian rupees at the rate of exchange prevailing on the date of the filing of the suit or the date nearest or most nearly preceding such date, stating in his plaint what such rate of exchange is.

In those cases where there are several claims payable in a foreign currency, usually United States dollars, the court may accede to a request in that behalf and order that the sale be restricted to persons who are able to bid for the ship in free foreign currency and that, in the event that there is no bid in free foreign currency equivalent to the appraised value, the ship be sold for Indian rupees. In order not to expose the claimants in foreign currencies to the hazards of fluctuations in the rate of exchange between the time from the filing of their suits and the payment out of their claims after adjudication, the court may be persuaded to direct that the sale proceeds in foreign currency, subject to prior approval of the Reserve Bank of India, be held by the registry in the same currency without conversion into Indian rupees. The Bombay High Court has so directed in the cases of *The East Hampton*, *The St. Nicolas*, and in both cases the Reserve Bank of India accorded approval to the sale proceeds, when received in the registry, being held in United States dollars without being converted into Indian rupees. The writer has mentioned the two cases within his experience which serve as precedents, as the Reserve Bank of India has not acted consistently in the matter of according such approval. In the cases of ships sold for Indian rupees, foreign claimants have experienced inexorable difficulty and delay in obtaining exchange control permission for repatriation out of India of the amounts recovered by them and wages claimants, especially, have had to suffer great hardship and privation.