The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?

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SECTION 245
COMPANIES ACT OF 2013

- Standing ✓
- Membership ✓
- Remedies ✓
- Financing ?
  - *Bar Council of India v. A.K Balaji (2018)*
  - Advok8
- “The glacial speed of the Indian courts” ✗
  - Too few judges
  - Lawyer incentives
  - Procedural rules
  - NCLT different?
1. K N Pillai v. R Prasanth
2. Vijaykumar v. SPM Exports Pvt. Ltd.
3. Jacob Mathew v. A.V. George and Ors.
4. Mr. Samvid Legal Zetatek Technologies Pvt. Ltd v. Gagan Aerospace Ltd & Ors
5. Atul Khanna v. Union of India & Ors.
7. Kamlesh Kumar Sen & Ors v. Gee Pee Hi Tech Industries
8. Abhimanyu Singh & Ors v. Brijnandan Industries
9. Shiv Sevak Singh v. Ablaze Info Solutions Pvt. Ltd. & Ors
10. UCO Bank v. Shree Shyam Pulp And Mills Ltd.
11. Mr. Sanjay Lalchand Siriah v. M /s White Street Engineering Solutions Pvt Ltd & Ors
CLASS ARBITRATION

- U.S. Experience:
  - 517 class arbitrations commenced 2002-2018 (AAA)
  - One or three arbitrators paid by the parties
  - Rules designed by parties, but AAA mimics Fed. R. Civ. P. 23
  - Not any speedier than court
  - Most settle before a merits determination
  - Very limited appeal
  - U.S. Supreme Court disparaged in 2011
CLASS ARBITRATION IN INDIA?

- “The glacial speed of the Indian courts”
  - Too few judges ✓
  - Lawyer incentives ?
  - Procedural rules ✓
- But what about U.S. Supreme Court?
  - Allow more appeals?
  - Don’t let parties change the rule allowing class actions!