**AIRCRAFT ACCIDENTS AND INTERNATIONAL LIABILITY REGIMES: AN APPRAISAL**

**Abstract:**

In the recent decades the use of aircraft as a means of transport has increased extensively due to the fast pace of globalisation all over the world. The aircraft is preferred when compared to conventional road ways and water ways due to the multiple advantages it offeres like convenient mode of travellling, easy accessibility and saving of time. However, at the same time the dangers involved in aircraft travel cannot be ignored as it directly affects the life and saftey of passengers as well as the saftey of cargos. The past few decades have witnessed numerous aircraft accidents all over the world. Such accidents raises various legal questions such as Who should be held liable, What can be the nature of liability and Who can be the claimant. International law has tried to address these issues since the early 20th century.

The development of international law regulating carriers’ liability for passengers began with a treaty adopted at Warsaw on 12 October 1929 popularly known as the Warsaw Convention. This Convention along with a number of subsequent Conventions and Protocols forms the ‘Warsaw System’. This system provides an international treaty framework for liability rules governing commercial international aviation travel, and for documentation such as tickets and air waybills. Compensation arrangements are provided for passengers, baggage and cargo affected by aircraft accidents. Today the Warsaw System comprises the 1929 Warsaw Convention, The Hague Protocol (1955), the Guadalajara Convention (1961), the Guatemala City Protocol (1971), the 1975 Additional Protocols Nos 1, 2, and 3, and Montreal Protocol No. 4 (1975). However the compensation system provided by the Warsaw System was not adequate enough. Similarly the Rome Convention Damage Caused by Foreign Aircraft to Third Parties on the Surface, which was adopted in 1952, to compensate for damage sustained on the surface has not been successful because of the complications introduced in that treaty.

Thus the International Air Transport Association (IATA) developed a series of voluntary agreements known as the IATA agreements to redress the inadequate compensation levels offered under the Warsaw System. However all these agreements and the Warsaw System led to uncertianity regarding the liability regime for aircraft accidents under international law. Recognising the need for a uniform liability regime, the international community has adopted the Convention for the Unification of Certain Rules for International Carriage by Air, at Montreal on 28 May 1999 (the ‘Montreal Convention’).

The Montreal Convention, amended provisions of the Warsaw Convention and Hague Protocol concerning compensation for the victims of air disasters. It unified the rules on international carriage by air and modernized limitation of liability for international air transport. The Montreal Convention has been a long-awaited change providing airlines and the passengers a more reliable regulation as opposed to the Warsaw regime which provided extremely low limits of compensation. The Montreal Convention, which applies to all “international transportation” of passengers, baggage and cargo, replaces the various air carrier liability regimes in effect around the world today with a new uniform set of rules. While a major portion of the Montreal Convention follows the language of the Warsaw Convention, the Montreal Convention makes significant changes to the scope and extent of the carrier’s liability, expands the jurisdictions where the carrier can be sued, and recognizes the effect of code sharing on air carrier liability. This convention is considered as a significant milestone in international law with respect to a uniform legal regime for aircraft accidents. Hence it is necessary to examine the Montreal Convention and its adequacy in the conemporary times. This paper seeks to analyse the scope and importance of Montreal Convention and its impacts on international liability regime for aircraft accidents.

**Author:**

**ANEESH V. PILLAI**

Faculty in Law

Hidayatullah National Law University

New Raipur

Abhanpur

Chhattisgarh

Email: [advavpillai@gmail.com](mailto:advavpillai@gmail.com), [aneesh@hnlu.ac.in](mailto:aneesh@hnlu.ac.in)

Ph: 09009896489; 09630636294