
The Mediation Act, 2023

Chapter-III Mediation

Section 5: Pre-litigation Mediation.

5. (1) Subject to other provisions of this Act, whether any mediation agreement exists or not, the parties before filing any suit or proceedings of civil or commercial nature in any court, may voluntarily and with mutual consent take steps to settle the disputes by pre-litigation mediation in accordance with the provisions of this Act:

Provided that pre-litigation mediation in matters of commercial disputes of Specified Value shall be undertaken in accordance with the provisions of section 12A of the Commercial Courts Act, 2015, and the rules made thereunder.

(2) The provisions of sub-section (1) shall be applicable to the tribunals notified by the Central Government or a State Government, as the case may be.

(3) For the purposes of sub-sections (1) and (2), unless otherwise agreed upon by the parties, a mediator,—

(i) registered with the Council; or

(ii) empanelled by a court-annexed mediation centre; or

(iii) empanelled by an Authority constituted under the Legal Services Authorities Act, 1987; or

(iv) empanelled by a mediation service provider recognised under this Act, shall conduct pre-litigation mediation.

(4) For conducting pre-litigation mediation under clauses (ii) and (iii) of sub-section (3), a party may request any person designated for this purpose by the High Courts, or an Authority constituted under the Legal Services Authorities Act, 1987, as the case may be.

(5) The court-annexed mediation centre and an Authority constituted under the Legal Services Authorities Act, 1987, shall maintain a panel of mediators for the purposes of pre-litigation mediation.

(6) Notwithstanding anything contained in sub-sections (1) and (2) and the Motor Vehicles Act, 1988, when an application for compensation arising out of an accident is made before the Claims Tribunal, if the settlement as provided for in section 149 of that Act is not arrived at between the parties, the Claims Tribunal shall refer the parties for mediation to a mediator or mediation service provider under this Act.

(7) Where the parties arrive at a settlement agreement under sub-section (6), it shall be placed before the Claims Tribunal for its consideration.

(8) If the parties do not reach to settlement agreement under sub-section (6), a non-settlement report prepared by the mediator shall be forwarded to the Claims Tribunal, which has referred the

matter for mediation, for adjudication.

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