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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **JUDICIAL MODIFICATION OF ARBITRAL AWARDS** **POST-GAYATRI BALASAMY: DOCTRINAL ANALYSIS** **AND CONCERNS OF JUDICIAL OVERREACH**

AUTHORED BY - <sup>1</sup>ADV. PRIYANKA KUMARI

## **Introduction**

The Supreme Court's April 2025 decision in *Gayatri Balasamy v. ISG Novasoft Technologies Limited* marks a watershed moment for Indian arbitration law. For decades, Indian courts, reflecting global best practices, adhered to a strictly limited scope under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996—courts could either set aside or remit an arbitral award, but *not modify* it. The *Gayatri Balasamy* ruling signals an evolution, recognizing a nuanced judicial power to modify arbitral awards under certain conditions. This article critically analyses the doctrinal shift, its implications for justice in arbitration, and the attendant risk of judicial overreach.

## **Background: The Evolution of Judicial Powers under the Act**

Prior to *Gayatri Balasamy*, the judicial intervention in arbitral awards was highly circumscribed. The rationale: preserve arbitral finality, party autonomy, and expedient dispute resolution. Modification of awards by courts was viewed as antithetical to these objectives, risking dilution of the arbitral process and undermining the contractual foundation of arbitration. Courts could:

- Set aside an award for specified grounds (e.g., fraud, misconduct, violation of public policy)
- Remit an award back to the tribunal for reconsideration

However, any act of judicial modification was considered *ultra vires* the statute and contrary to international practice.

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## **The *Gayatri Balasamy* Decision: Doctrinal Shift**

The Constitution Bench's 4:1 majority allowed that courts possess a *limited power* to modify arbitral awards, focusing on the mandate to render "complete justice." This nuanced approach recognizes that rigid refusal to modify may leave parties with incomplete relief, especially in complex and sensitive disputes (such as those involving sexual harassment and employment rights, as in the case at hand). Key doctrinal points include:

- Textual basis: The Court interpreted Sections 34 and 37 not as exhaustively prohibitive, but as indicators of the main powers—not exclusive of modification in exceptional circumstances.
- Balancing interests: The judgment emphasizes that while arbitration finality is critical, courts are guardians of justice and may intervene to ensure awards conform with essential fairness and legality.
- Standard of intervention: Courts should resort to modification sparingly—preferably where mere setting aside/remitting would lead to unjust outcome or procedural vacuum.

### **Risks and Concerns: Judicial Overreach**

Although the ruling attempts a delicate balance, it raises real concerns about judicial overreach:

- Slippery slope of intervention: Even limited modification powers risk habitual judicial tinkering, weakening the predictability and finality that make arbitration attractive.
- Uncertainty for parties: Contracting parties may be less willing to arbitrate in India if awards are vulnerable to substantive changes post-award.
- Potential for inconsistent standards: The lack of clear criteria for "exceptional circumstances" could lead to judicial inconsistency, subjectivity, and forum shopping.
- Undermining arbitral autonomy: Judicial modification may erode the legal sanctity of party choice and contractual arbitration clauses.

### **Safeguards and Nuances in the Judgment**

The *Gayatri Balasamy* decision does anticipate risks, with the majority and dissent (detailed in the ruling) cautioning against routine judicial intervention. The ruling's legacy may depend on careful future interpretation: circumscribed, disciplined exercise of the new power, and adherence to the principle that modification is strictly the exception.

## Conclusion

The Supreme Court's recognition of a limited power to modify arbitral awards fundamentally alters the Indian arbitration landscape. While fostering the possibility of complete justice, it simultaneously opens the door to new risks of judicial overreach. The doctrinal shift should be implemented with judicial restraint, clear standards, and respect for arbitration's finality—lest the remedy become as problematic as the problem it aims to address.

## Reference

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