

## **Italian Marines Case - Closure, Compensation**

### **Why in news?**

The Supreme Court ordered the closure of proceedings in India against two Italian marines, accused of killing two fishermen off the Kerala coast in February 2012.

### **What is the case on?**

- On February 15, 2012, two Indian fishermen were returning from a fishing expedition near Lakshadweep islands onboard fishing vessel St Antony.
- They were gunned down by two Italian marines on board oil tanker Enrica Lexie.
- The incident occurred around 20 nautical miles off the coast of Kerala.
- Shortly after the incident, the Indian Coast Guard intercepted Enrica Lexie.
- They detained the two Italian marines, Salvatore Girone and Massimiliano Latorre.
- The challenges in dealing with the case had to do with -
  - i. the legal tangles over jurisdiction
  - ii. the lawfulness of their arrest and the location of their trial
  - iii. the provisions of law under which they should be tried
  - iv. legal accountability through a criminal trial

### **What was the Permanent Court of Arbitration ruling?**

- [Permanent Court of Arbitration - a tribunal under the UN Convention on the Law of the Sea]
- The Permanent Court of Arbitration had clarified that India and Italy had concurrent jurisdiction to try the case.
- However, it said that the Italian marines enjoyed immunity from Indian jurisdiction.
- This is because they were acting on behalf of a state.
- The UN tribunal had also ruled that the Indian fishing boat, St. Antony, and the victims were entitled to compensation.
- This is on the ground that Enrica Lexie had violated the boat's right of navigation under the Law of the Sea.

### **What next?**

- The Supreme Court has issued the order of closure after Italy deposited compensation of Rs. 10 crore.
- The two marines are now likely to face trial in Italy.
- But as far as India is concerned, the monetary compensation may have to be treated as the only available form of closure for the moment.
- The legal heirs of the two victims are likely to get Rs. 4 crore each, and the owner of the fishing vessel, Rs. 2 crore.

### **Why is the delay?**

- India did not initially agree to Italy's offer of compensation and a trial in its own jurisdiction, which was what the UN tribunal's ruling also said.
- Back then, many in India believed it was an act of wanton killing.
- And those in Italy believed the fears of piracy were genuine.
- Meanwhile, India's efforts to assert criminal jurisdiction succeeded in national courts.
- In 2013, the SC ruled that prosecuting the marines was solely in the Union government's jurisdiction.
- The NIA invoked the Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002.
- This stringent anti-piracy law gave way to Italy's concerns.
- European nations objected to the trial taking place under this law that provided for the death penalty.
- The provisions of the Act were dropped, but this led to significant delay in prosecuting the matter.
- A lesson from the Italian marines case is that in such incidents, legal steps must go hand-in-hand with diplomatic efforts to find early resolution.

**Source: The Hindu, The Indian Express**

