Implications of Personality Rights

Why in news?

The Delhi High Court has recently passed an interim order which prevents the infringement of personality rights of Bollywood star Amitabh Bachchan.

What is the issue?

- Mr. Amitabh Bachchan approached the court seeking an omnibus order protecting his name, image, voice or any of his characteristics without his consent, in any way or form.
- The court, through its order, restrained persons at large from infringing the personality rights of the actor.
- It also claimed that such misuse of personality rights could cause irreparable loss to the applicant.

What are personality rights?

- Personality rights refer to the right of a person to protect his/her personality under the **right to privacy or property**.
- These rights are important to celebrities as their names, photographs or even voices can easily be misused in various advertisements to boost sales.
- Therefore, it is necessary for renowned personalities to register their names to save their personality rights.

How personality rights are protected in India?

- There is **no separate codified law** in India dealing with personality rights.
- **Article 21** - The closest statute to protect personality rights is Article 21 of the Indian Constitution under rights to privacy and publicity.
- **Copyright Act 1957** - Under the act, moral rights are attributed only to authors and performers which comprises of actors, singers, musician, dancer, etc.
- **Indian Trademarks Act, 1999** - Section 14 of this act prohibits the use of personal names.
- Personality Rights are also protected under the common law remedy of passing off and that of Law of Torts.
- **Passing off** - It takes place when someone intentionally or unintentionally passes off their goods or services as those belonging to another party.
- **Law of torts** - It refers to a body of law that provides remedies for non-contractual acts of civil wrongdoings.

How personality rights are different from the publicity rights?

- Personality rights are different from publicity rights.
- Personality rights consist of two types of rights:
    - **Right of Publicity** - The right to keep one's image and likeness from being commercially exploited without permission, which is similar to the use of a trademark
    - **Right to Privacy** - The right to not have one's personality represented publicly without permission

- **How other countries deal with personality rights?**

- In the USA and the UK, there is no specific statute for the purpose of dealing with personality rights alone.
- However, the US provides for protection with respect to false endorsements, associations and affiliations.
- In Canada both laws of torts and statutory laws cover the subject matter.

What about consumer rights?

- While celebrities are protected from commercial misuse, consumers are also misled owing to false advertisements or endorsements by such personalities.
- Due to such cases, the Ministry of Consumer Affairs has made a notification in 2022 to keep a check on misleading adverts and endorsements of consumer products by imposing a penalty on the endorser.

What is the way ahead?

- In a free and democratic society, where every individual's right to free speech is assured, the over emphasis on a famous person's publicity rights can tend to chill the exercise of such invaluable democratic right.
- The courts need to strike a balance between protection of high valued rights of personalities and democratic right of individuals in society.
- Meanwhile, it is also equally important to protect the interest of the consumers as well from any kind of misleading advertisements and endorsements.

References

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2. DNA India | What are Personality Rights
3. Lexology | Personality Rights and its protection in India

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