Italian Marines' Case

Why in news?

The Permanent Court of Arbitration has given its judgment in the Italian Marines' Case.

What is the case?

- In 2012, two Kerala fishermen were shot dead by Italian marines from the Enrica Lexie.
- Enrica Lexie is about 20.5 nautical miles off India's coast.

What is the judgment?

- The Permanent Court of Arbitration (PCA) admitted that both India and Italy had concurrent jurisdiction in the matter.
- However, it ruled that India does not have jurisdiction to try the marines as they were acting on behalf of a state.

What are the points favouring India?

- The PCA found that the Italian vessel had violated the rights and freedom of navigation of the Indian fishing vessel under UNCLOS.
- [UNCLOS - United Nations Convention on the Law of the Sea]
- The PCA has also found that the action, which caused loss of lives, property and harm, merited compensation.
- It asked the parties to consult each other on the compensation due to India as a result.

What is the argument that the PCA reject?

- The PCA rejected a key argument by Italy that India led the Italian vessel into its territory and arrested the marines.
- Another rejected argument is that India violated its obligation under Article 100 of UNCLOS.
- [Article 100 of UNCLOS is regarding measures to suppress piracy.]
- This may mean that the PCA did not view the incident as one related to piracy at all.

Is the incident really an international issue?

- The circumstances indicate that there was **no attempt at piracy** by the fishing vessel.
- The fishing vessel was **within India's Contiguous Zone**.
- It was quite clear that the offence warranted arrest and prosecution by the Central government under domestic law.
- As legal tangles were being sorted out, and India was dealing with the diplomatic fallout, the marines managed to obtain orders to leave India.
- The National Investigation Agency's invocation of a domestic act caused a **diplomatic furore** as it provides for the death penalty.
- Ultimately, it took time for these charges to be dropped.

What is the conclusion?

- The PCA's award is final and has been accepted by India.
- This is a huge setback for the expectation that the two marines would face a criminal trial in India.
- The takeaway for India should be the lessons, in the legal and diplomatic domains, which can be drawn from the experience.

Source: The Hindu

Quick Facts

Permanent Court of Arbitration (PCA)

- It is an intergovernmental organization located at The Hague, the Netherlands.
- It provides a forum for the **resolution of international disputes** through arbitration and other peaceful means.
- It provides services of arbitral tribunal to resolve disputes between member states, international organizations, or private parties arising out of international agreements.
- In PCA, parties can themselves select the arbitrators.
- The organization is **not a United Nations agency** but has observer status in the UN General Assembly.
- The rulings of PCA are **binding** but the tribunal has no powers for enforcement.

UN Convention on the Law of Sea (UNCLOS)

- It is the international agreement that resulted from the 3rd UN Conference on the Law of the Sea.
- It provides a regulatory framework for the use of the world's seas and oceans.

- UN has no direct operational role in the implementation of the Convention.

