



An easy to understand
booklet on Litigation finance

ABOUT LITIGATION FINANCE

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Litigation Financing is a process of obtaining funds from the third party Litigation Finance Companies by the claimant/claim holders to contest their case before any court or authority. In simple terms, the third party litigation funding firms bear all costs of Claimants litigation starting from case filing to the final verdicts.

EXAMPLE (I)

Example (i): 'A' has supplied goods/ or rendered services to 'B' and against those goods/services B has to pay Rs. 10 Lac to A. But B did not want to make the payment, the reason may be anything. In this case, A will file a legal case against B, and in order to file a case, he has to bear 2 lakhs as legal expenses for the recover the sucked amount. And if A contests the case with his own bank accounts then He will bear all costs.

And if he opts to contest the cases with the help of a litigation finance company then the entire cost of litigation, from case filing to final verdicts, is borne by a litigation financing company.

EXAMPLE (II)

let's assume that **company 'A'** has 15 cases worth 10 Lakhs each, and if he has to pay only 2 Lakhs for each case, as a legal expense, to proceed with the case in the court, then the total expenses that he has to bear are **(2 lakhs * 15 cases) = 30 Lakhs** now the operating cash of company 'A' worth 30 lakhs are stuck in litigation for years.

There is **company B**; which has the same cases with the same amounts. Now, B proceeds with the case in court, and he opts to go with a litigation finance company to fund his cases.

In this scenario, the Litigation financing company will fund all costs of proceeds. And B saves the entire 30 lakhs operating cash, now this saved cash is free to be utilized in several business operations and growths.

WHAT DO LITIGATION FINANCING OR TPLF COMPANIES DO?

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1. Litigation finance company funds the A to Z costs of litigation from start to the final adjudication.
2. The finance offered by the Litigation financing company is non-recourse in nature. In simple words: if the case is unsuccessful then claimants have not to pay back the funded amounts.

Situation (i), In normal case

Let us look at a graphic representation.

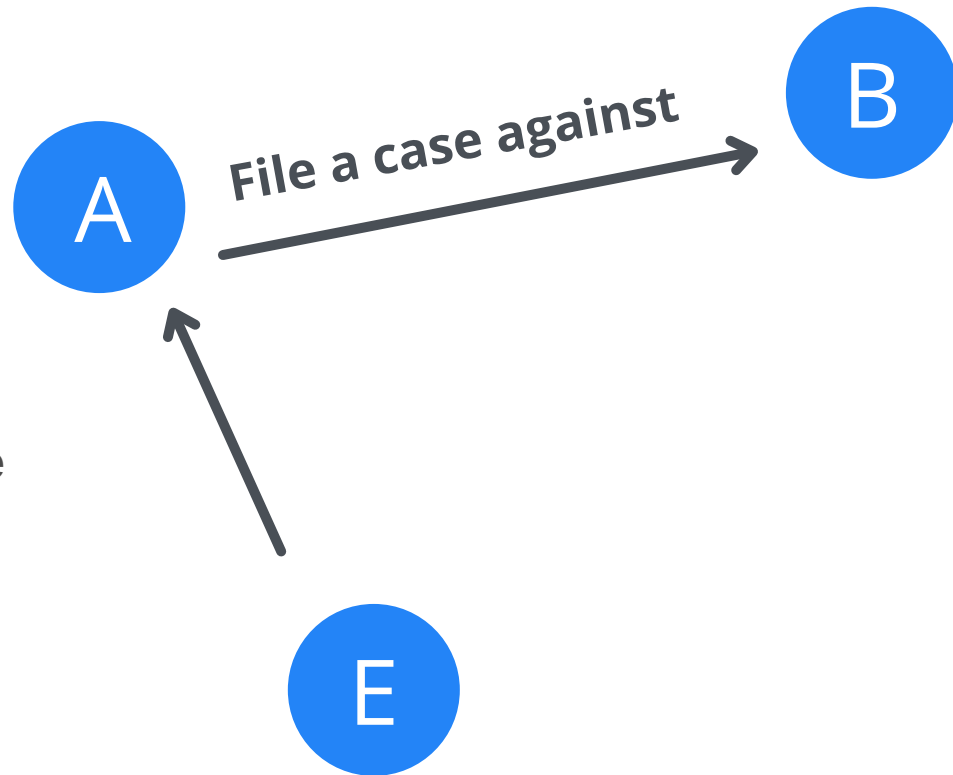
Assume:

A has supplied goods/ or rendered with services

B is the one to whom goods are supplied/ or services rendered.

L is the Litigation Funding Company

E Expenses on Litigation



E Will be borne by A

Situation (ii), Where Litigation Funding comes into the picture.

Let us look at a graphic representation.

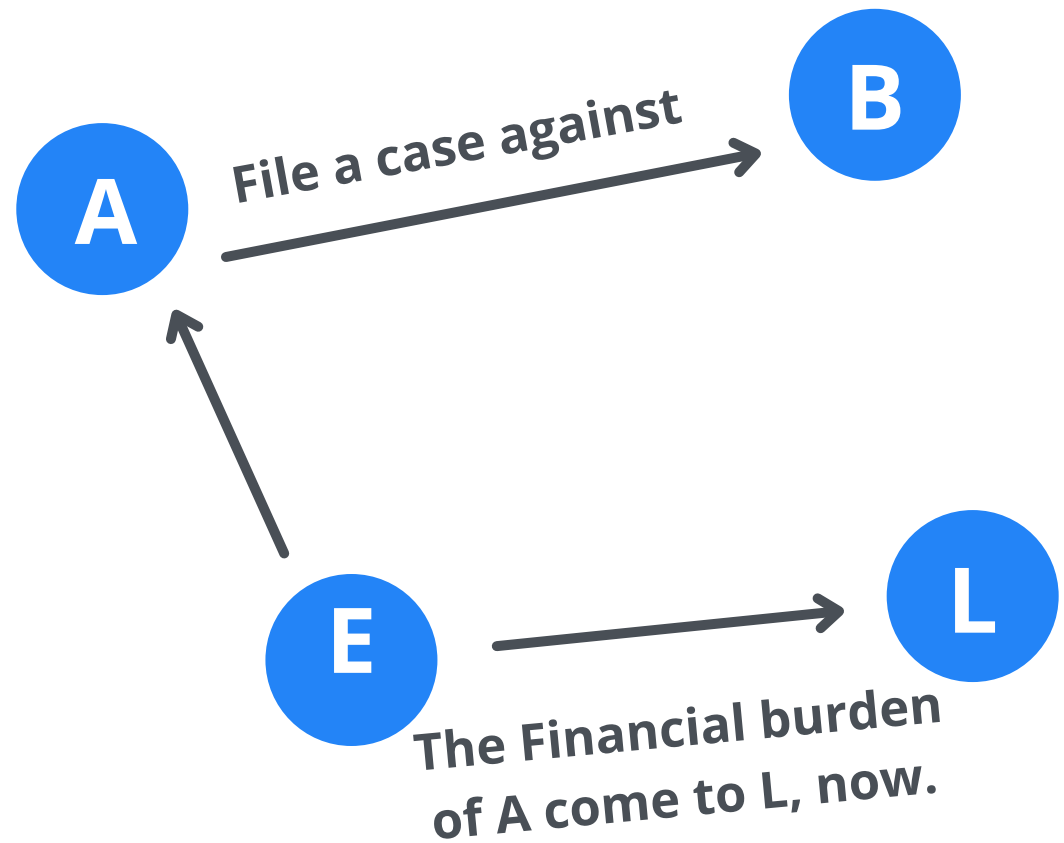
Assume:

A has supplied goods/ or rendered with services.

B is the one to whom goods are supplied/ or services rendered.

L is the litigation Funding Company.

E Expenses on Litigation.



CONCLUSION

Conclusion: Third-party Litigation Finance Company takes over the financial burden of the proceeding of a legal claim. The basic process of the case does not change, even if the Litigation Funding Company comes into the picture. The control over the case still belongs to the claimant; only the financial burden and risks associated with it are shifted.

But in the absence of Litigation Finance company, the cost of proceeding is always borne by claimants/ claim holders.

WHAT KIND OF COST IS BORNE BY THE LITIGATION FINANCE COMPANY?

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The TPLF Companies bear all kinds of financial costs associated with claims proceeding till their final disposal.

LIST

- a. Fees of lawyer/law firms
- b. Interrogatories
- c. Preparation of Witnesses
- d. Hearings
- e. Appeal
- f. Summon
- g. Consultancy
- h. Court fees
- i. Investigations and discovery of documents



The above expenses list is illustrative rather than exhaustive. That is to say, Litigation funding companies are not limited to the above-mentioned list only. It includes all types' costs of litigation during the course of the legal process.

WHAT KIND OF CASES DOES THE LITIGATION FINANCING COMPANY FUND?

The litigation cases can be divided into two types namely

- a.** Private Cases: Any kind of litigation which arises due to injustice or wrong done by an individual/s against other individuals/s. For example, family matters, property matters etc.

- b.** Commercial Cases: It is evident from the word 'commercial' that any kind of dispute arises between companies or companies against individuals or visa-versa, for any reason along with monetary implications.

The Litigation Financing/TPLF can finance all kinds of cases but we at **LEGAL FUND only fund Commercial Cases and not Private Cases.**

WHAT KIND OF CLAIMANT IS ENTITLED TO AVAIL LITIGATION FINANCING?

Let us assume: there are two claimants namely, **A1** and **A2**. lets see, who are entitled to get funds from Litigation Financing Company and with what scenarios?

In the scenario of **A1**

He has to file 15 cases of recovery in the court and for every case, he has to bear the cost of Rs. 2 lacs but he has no money to bear the cost, Now **A1** thinks of approaching the Litigation Funding Company to fund his cases and transfer his financial burden to the third party. In this case, Third Party Litigation Company, after analysing cases, will provide the entire cost of litigation (15 cases * 2 lacs = 30 lacs) to **A1**

In the scenario of **A2**

A2 has a well-established company. It has a good financial position and all capacity to bear the cost of Litigation.

Company **A2** has 15 different cases of recovery to be filed in court. For every case, he has to bear the cost of Rs. 2 Lacs. Apart from this, the main invisible cost that maximum companies ignore is the risk of loss associated with cases (for an instance; if the case is unsuccessful the entire funds poured in litigation proceedings along with recovery amounts go in vain.)

- **In this case, this amount will be $(15*2 \text{ Lac})= 30 \text{ Lac}$.**
- **A2's total expense is 30 lacs which will get stuck in Litigation for years**

But if Company **A2** thinks of taking financial support from a Litigation finance company for his case then he too can avail the platform of Litigation finance.

If Company B avails the TPLF, despite having sufficient funds, he can save his company's operating cash worth **30 lacs** and it could be utilized in the expansion of the company's position and growth.

It is clear from both scenarios that the Litigation Funding companies do not differentiate between claimants on the basis of financial positions.

WHETHER CLAIMANT/CLAIM HOLDERS HAS TO RETURN THE FUNDED AMOUNT IN CASE OF UNSUCCESSFUL OUTCOME OF THE LITIGATION?

Taking funds from Litigation finance Company does not make the claimant binding to return the funded amount even if the outcome of the case is unfavourable.

In simple words, The claimant whether falling in the category of A1 or A2 as explained above, do not have to return the funds invested by Litigation Funding Company even in the case of an unsuccessful claim.

TPLF works on a **“NO WIN, NO COST”** model also called “Non-Recourse”. This model allows the claimant to pay to the Litigation finance Company an agreed share from the recovery proceeds only in the case of successful Litigation.

WHY LITIGATION FUNDING IS VITAL?

1. To take all financial worries of Claimant and provide Access to Justice

A common individual has doubts and apprehension in his mind while going for any legal claims. Litigation includes the legal costs, lawyer's fee, court fees, time period of recovery, the outcome of the case etc. The claimants keep these things in their knowledge while calculating all the risks. And while afraid of high cost, he may back out or make the out of court settlement in a very minimal amount which causes him a great financial loss.

And in such a situation Litigation financing company plays a vital role for claimants to meet his expectation in the proceedings by providing them with complete financial support for the litigation against any opposite parties.

2. *To act as a deterrent to the wrongdoers.*

In most cases, it is seen that the defendant/wrongdoer knows the financial conditions of the claimant. He also knows about his incapacity of fighting the case. The defendant in such situations takes undue advantage of the claimant conditions.

But with the TPLF in the picture, the situation will be turned opposite. Litigation Financing Company minimizes the financial gap between both parties by providing a booster dose of funds to the claimant and making his position stronger against the wrongdoer.

3. *Maximize growth of Companies*

The Litigation financing not only takes the burden of litigation cost from the claimant but also contributes to the growth of his company.

For example- A is a small company and he has to file 10 cases in various categories. The company has a turnover of about Rs. 10 Crore in a year.

Situation 1: A filed cases against B., the legal cost on a case is **Rs. 2 Lac**, the 10 cases will be costing Rs. 20 Lac. If we calculate the percentage of Rs.20 Lac against the whole turnover, it is **2%**.

It means the claimant litigation cost is about 2% of his total assets and is basically of no use and stuck up for years till the final recovery of the amount.

Situation 2: A filed 10 cases against B. Litigation Financing Company bears the cost of litigation of Rs. 20 lacs on behalf of A. Now, the claimant can use his money for the growth of the business, purchase of raw materials, smooth operations of the company etc.

Thus, It is evident that the Litigation finance firms enhance the growth possibility of the claimant's company.

THE SIMPLE PROCESS TO AVAIL TPLF

For example, “A” is the claimant who is looking for funds. “L”, is the Litigation Financing Company.

1. A will contact L by any medium.
2. L will brief the basic terms and conditions and will ask for the required information and documents.
3. A will agree on the basic terms and conditions and submit the required information and documents.
4. A and L both will enter into the NDA for the purpose of both parties Rights and Liabilities.
5. L’s expert team will analyze the documents and information provided by A.
6. If all the criteria under the Litigation Financing procedure are found satisfied.

"L" will fund cases.

HOW MUCH TIME WILL BE TAKEN TO DECIDE THE CASE IS FUNDABLE OR NOT.

Around two weeks, it may take to decide whether the submitted case is fundable or not.

HOW MUCH TIME WILL BE TAKEN TO DECIDE THE FINAL OUTCOME OF THE CASE?

Since the Litigation Finance Company has no direct control over any cases or their proceedings, it depends on the jurisdictions or judiciary systems of the countries or states.

Thank You



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