



# **Empirical Study of Kingfisher Airlines Bankruptcy: Implications of Pre-2016 vs. Post-2016 Insolvency and Bankruptcy Code in India**

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## **ABSTRACT**

The dissolution of Kingfisher Airlines, which used to be one of the most successful airlines in India, revealed some serious deficiencies in the bankruptcy and insolvency processes in the country even prior to 2016. Kingfisher's case is an example of how insolvency processes that too old fail to provide solutions to the restructuring of the organization, resulting in long periods of distress, poor repayments to creditors, and very long repayment standoff periods. In this paper, we provide a comparison of the bankruptcy in which Kingfisher Airlines was involved under the pre-IBC framework and a fictitious resolution of the same airline's bankruptcy following the IBC's resolution processes implemented in 2016 and beyond. The focus will be on how various measures under the IBC such as speedy resolution processes, exclusive entry of the tribunal, and management by independent professionals, would have impacted the direction of the insolvency proceedings of Kingfisher. In doing so, this paper discusses the lessons learned from the differences created by IBC in terms of recovery rates, corporate governance, and levels of interest of the investors in the case of India and any other countries influenced by Indian IBC reforms in the future with regards to corporate insolvencies.

**KEYWORDS:** Kingfisher Airlines, Insolvency and Bankruptcy Code (IBC) 2016, Corporatization in India, Pre-IBC and post-institute of bureaucracy commentary analysis, Mechanisms for resolving bankruptcies, Recovering debts in a country, Distressing and restructuring finance, The Company Law Tribunal of India, Doggone creditors in ruination, Changes in business leadership in India, Embattled Economies Of Several Nations India Case studies IBC effectiveness in emerging economy banks, Role of insolvency practitioners, Conceptions of bankruptcy in societies in transition, Management of corporate foreclosures.

## **INTRODUCTION**

The failure of Kingfisher Airlines and the inability of its owners to manage the consequences of their empirical bankruptcy, and more importantly, the claims of the creditors, was a high-profile corporate collapse in the skein of India more than revealed the effectiveness of any one country's pre-2016 insolvency and bankruptcy laws. Formerly a frontrunner in the private aviation industry in India, Kingfisher Airlines expands owning a rapidly rising growth curve, before venturing into more complex interrelationships such as M&A, which focus exposed the weaknesses in corporate governance, financial management and debt collection processes in India pertinent for seeking change in laws governing business.

### **Background on Kingfisher Airlines: Launch, Expansion, and Challenges**

Kingfisher Airlines came to into existence in the year 2005, thanks to the United Breweries Group which under the leadership of Vijay Mallya who thought it could be a luxury brand airline that could transform the ways of air travel in India. The expansion of the airline began to progress fast and within a short period the airline had acquired a huge fleet and turned into one of the major Indian airlines operating in the premium segment with a focus on customer satisfaction and modernization of technology. But the Kingfisher's aggressive expansionist approach came at a cost as most of the strategy was financed through loans which seriously threatened its economic viability. The airline started recording absolute losses during the same years, due to the expensive fuel pricing, high operating costs, and intense rivalry within the line of

business. The year 2007 saw Kingfisher take on board Air Deccan, a low-cost airline, in efforts to widen its customer base, which made its already strained resources even worse.

At this point, in 2012, the Airline had one of the largest debts estimated at above 9,000 crores, (that is roughly 1.2 billion US dollars) leading to suspension of operations, revocation of its operating license and massive layoffs.

### **Outline of India's Economic and Regulatory Environment Pre-2016**

India since independence had no uniform and effective laws for insolvency and bankruptcy of corporates, which would provide a consolidated framework and an efficient way for dealing with corporate collapse. Instead, the country had to rely on numerous, antiquated and ill-fitted laws that complicated the turnaround of distressed assets such as the Companies Act of 1956, the Sick Industrial Companies Act of 1985, and the Debt Recovery Tribunals that were put in place in 1993. All these laws had their own limitations; for instance, the SICA focused on the rehabilitation of 'sick' industrial firms but in practice proved to be futile because of excessive delays and inefficiencies in helping dying corporations. The same case applied to the DRTs whose aim was to quicken the process of debt recovery for banks, but in de facto levels of functioning, they became clogged with an avalanche of cases resulting in almost nil progress. These limitations resulted in the insolvency process in India being full of inefficiencies such as unnecessary delays, poor recovery of debts owed to creditors, and poor performance in the rehabilitation of distressed companies. These gaps were often taken advantage of by distressed on the way companies who initiated tiresome legal proceedings at the face of debt repayment deadlines. This situation was detrimental to foreign and national creditors alike and as a result raised doubts concerning their investment and the business climate in India was adversely affected. Additionally, as there was no focused jurisdictional control over the quick resolution of insolvencies, it would not be unusual for most assets to decrease in worth significantly during the process of litigation further impacting recoveries.

### **The Need for Bankruptcy and Insolvency Reform in India**

Problems relating to the insolvency framework in India were already evident in the example of Kingfisher Airlines where the unavailability of the code led to long drawn resolution processes with little or no recourse to the creditors. As the economy of India grew and the level of corporate credit advanced, the situation urgently called for change owing to the outdated insolvency framework. The prevailing system was not only insufficient to safeguard the rights of creditors but also acted as a barrier to economic development by discouraging risks and fostering reckless financial behaviour.

It was in the light of these concerns that the Government of India made a policy change in 2016 and introduced the Insolvency and Bankruptcy Code (IBC), which was meant to be a radical reconstruction of existing laws into a coherent whole. The IBC brought in timelines, gave power to the creditors, aimed at asset recovery and responsible lending and borrowing. Such reform was an important milestone in the process of reforming and modernizing the financial and regulatory regimes in India. This study explains how the IBC transformed India's insolvency resolution process by instituting a more orderly as well as a more certain economic environment. Kingfisher airline bankruptcy is also analysed under the pre-2016 and post-2016 frameworks in this study in order to elaborate the consequences of the IBC and the importance of the IBC in the corporate sector of Indian economy.

## **OBJECTIVE**

The present paper seeks to analyse the influence of the 2016 Insolvency and Bankruptcy Code (IBC) on corporate insolvency cases in India. The analysis will include a well-known example of a bankruptcy case resolved prior to the adoption of the IBC, that of Kingfisher Airlines, and those that were concluded under the post-IBC regime.

### **1. Study the Process of Insolvency Before the introduction of the IBC: -**

In this paper a pre-IBC perspective of how the insolvency and bankruptcy procedure was followed with reference to Kingfisher Airlines as a case study. It looks at the degree of success achieved by the KRA, the strategy and process applied, the results on outcome for Creditors, waiting times, and the issues encountered. These covers looking into consternation, unmet expectations, jamming, and other systems that tend to fail or perform very poorly like in this case the process being very drip-drip and boring.

### **2. Understand the Problems Involved in Resolution Processes Under Coded Laws: -**

King's Fisher Airlines overage di Winter twinning experience, how does icc procedure pioneered by

2002 IBC compare vis-a-vis these two cases on closure of the corporations. In this cause use and contain solid know how and do how, commercial timeliness, effects on the owners' and creditors' equity and other aspects. It expresses examples of why eastern European countries have experienced an explosion of trademark practice in some countries, while others have knighted and restrained such trends.

### 3. Study IBC's Effect on the Creditors and Financial Systems in the Country: -

In addition, the research assesses the impact of IBC on market perspective on creditors peril and their corresponding financiers in India. In so doing that, the study tries to answer the question of whether the code has improved the way loans are repaid to the creditors and ensured more people willing to lend their money in solving the bankruptcy issues in the country. Furthermore, the effects are also studied in relation to external investments and the position of the country within the international market in terms of difficulties encountered in borrowing.

### 4. Provide Policy Recommendations: -

Based on findings, the study aims to offer evidence-based recommendations to further enhance the IBC. These suggestions could address lingering challenges such as regulatory amendments, improvements in judicial capacity, and strengthening of the insolvency professional network.

## RESEARCH METHODOLOGY

This research paper employs an in-depth case study strategy pertaining to the collapse of Kingfisher Airlines in the evaluation of the structures of insolvency law in India before and after 2016. The dividend-analysis technique and qualitative interviews together with the analysis of Kingfisher's bankruptcy outcomes and ramifications based on the designed IBC 2016 are the methodologies used in this study. The methodology includes comparative analysis, qualitative interviews, and secondary data analysis to examine the outcomes and implications of Kingfisher's bankruptcy in the context of the Insolvency and Bankruptcy Code (IBC) of 2016.

### Primary Data Collection [Literature Review]

The research on corporate insolvency in India has its observation and evolution, especially regarding the Insolvency and Bankruptcy Code (IBC) enacted in 2016. Before 2016, the processes related to insolvency in India were rather complicated as they involved different levels of legal commercial frameworks. Even though these frameworks were efficient in some cases, they often fell short in providing the resolve needed for the effective recovery of distressed assets within a reasonable period. These inefficiencies have been studied by many authors before this historical turning point. Hence the introduction of the IBC was addressed as a necessity.

### Pre-2016 Insolvency Framework in India

Until the insolvency and bankruptcy code (IBC) was adopted, the law concerning insolvency in India was not consolidated but rather contained in several laws. The key statutes were the Companies Act 1956, the Special Act of 1985 on Sick Industrial Companies (SICA), and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest 2002 (SARFAESI) Act

- **Companies Act of 1956:** This act contained provisions for dealing with corporate insolvency processes, however, it was deemed to be obsolete and inefficient for large corporate failures. Moreover, the winding-up processes were generally protracted, a situation which was partly attributed to inefficiencies of process and partly to fully occupied courts.

- **SICA, 1985:** SICA sought to protect the 'sick' industries, however it became infamous because of the considerable time taken. A business was considered 'sick' once it was divested by SICA, and hence could wait upon the government for help, in terms of needless debt accumulation, to fetch itself back into the market. Still, the system allowed much delay to the extent that distressed companies were able to postpone everything as creditors were left with hardly any options.

- **The SARFAESI Act, 2002:** The SARFAESI Act represented a remarkable leap forward since it empowered banks to take possession and sell the assets owned by defaulters without resorting to the courts first. Nonetheless, even though the SARFAESI enabled creditors to carry out security enforcement on those secured assets, it suffered from certain flaws. It was unable to deal with intricate corporate restructuring

programs or provide a fast settlement of claims for creditors without secured interest in the debtor's property.

### Challenges in Pre-IBC Insolvency Cases: The Kingfisher Airlines Case

The case of Kingfisher Airlines' downfall illustrates the very difficulties which were prevalent before the introduction of IBC. Kingfisher, once a flagship airline brand in India which turned highly ambitious, went into a complete halt in operations in 2012 with an outstanding debt of more than a billion dollars. Under the applicable laws at that time, it was very hard for the creditors to collect their funds particularly because the disputes took several years, and only tiny percentages were recovered in the end. A study of the case has revealed the following problems:

- **Excessive Time Frames:** Lacking an effective remedy, Kingfisher's creditors had little choice but to invoke a mixture of the Companies Act and SARFEASI Act. This was a wearying process as it involved excessive court procedures and interaction among different legislative systems which were still ineffective in settling the disputes quickly.
- **Inadequate Remedy for Credit Institutions:** Knowing the potential benefits of the case to incumbents, creditors had little agency over the insolvency process. According to specialists, SICA along with the Companies Act did not consider the rights of the creditors, which resulted in delays in the processes and poor recovery of funds. Studies indicate that where creditors were able to win their claims, as a rule, it required separate lawsuits because the claimants' assets were 'frozen' in the overall bankruptcy, which was a strategy that large debtors could wield to good effect.
- **Deterioration of assets:** Effective net realizable value of certain assets of Kingfisher Airlines such as aircraft, airport slots, etc., was significantly impaired because of the protracted period of insolvency, which diminished recovery prospects. Existing literature shows that the absence of an efficient and time-bound resolution mechanism resulted in asset depreciation which made it close to impossible for the creditors to recover any substantial sums.

### Post-2016 Insolvency Framework: The Introduction of the Insolvency and Bankruptcy Code (IBC)

In response to these inefficiencies, the IBC was enacted in 2016 to create a unified and streamlined insolvency process. The literature on the IBC underscores its transformative impact on the Indian insolvency landscape. The IBC introduced several key reforms that addressed the limitations of previous laws:

- **Time-Bound Process:** The IBC mandates that corporate insolvency resolution should be completed within 180 days, extendable by 90 days. This strict timeline aimed to prevent the prolonged delays that characterized pre-IBC cases like Kingfisher Airlines. Studies show that this time-bound approach has significantly improved the efficiency of insolvency cases in India, reducing the average resolution time to under a year.
- **Creditor Control:** A critical feature of the IBC is the empowerment of creditors. The IBC establishes the Committee of Creditors (CoC), which comprises financial creditors who have a direct interest in the insolvency process. The CoC has the authority to decide on the resolution plan, with majority approval required for major decisions. This feature has transformed India's insolvency landscape, shifting power from debtors to creditors and allowing for a more transparent and efficient decision-making process.
- **Asset Preservation:** By imposing strict timelines and granting the CoC the ability to appoint insolvency professionals, the IBC has also helped preserve the value of assets. Studies indicate that faster proceedings have prevented asset deterioration, resulting in better recovery rates for creditors.

The available evidence suggests that the IBC has changed Indian insolvency regime dramatically and debunked several aspects of the ill-fated pre-IBC set up. The Kingfisher Airlines bankruptcy is a case in point to demonstrate the demerits of the past system which included drawn-out litigation, poor recovery rates and minimal control exercised by the creditors. In contrast with earlier cases, it seems that post-IBC cases have improved resolution timelines, increased creditor recoveries and shifted the balance of control to the creditors. Nonetheless, some backtracking is evident since problems like judicial capacity and sectoral recovery rates still exist, suggesting that there may be more room for improvement of the IBC than has been achieved so far. This review points out the significance of the IBC for improving the current insolvency regime in India by making it more attractive to investors. In this regard, it would be useful if future research further photographs some sectors in order to improve them and proffer ways to enhance the IBC with a view of sustainable corporate governance and financial security in India.

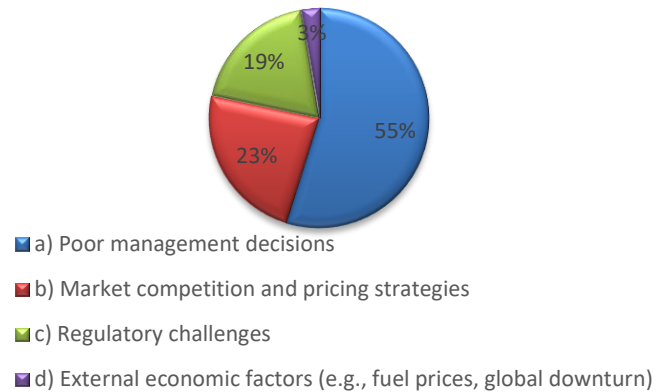
## Secondary Data Collection [Surveys]

The Survey results are organized around key themes—resolution time, creditor recovery rate, and creditor satisfaction and control—to assess the impact of the Insolvency and Bankruptcy Code (IBC) of 2016.

FIGURE 1

**Result:** - According to the Survey **54.8%** held that Airlines financial distress was primarily by, **Poor management decisions** - The airline's aggressive expansion strategy, including the costly acquisition of Air Deccan, strained its finances. Additionally, a focus on luxury services led to high operational costs that were unsustainable, And Secondly **23.5%** held that **Regulatory Challenges** were the cause of airlines financial distress as the it faced regulatory hurdles, including the suspension of its flying license by the Directorate General of Civil Aviation in October 2012 due to safety concerns and financial instability, And Thirdly 19% held that **Market Competition and pricing strategies** affected the Indian aviation market is highly

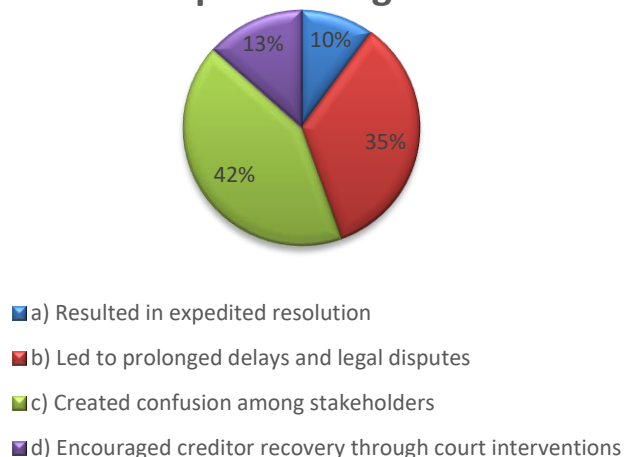
### Q.1 What were the primary causes of Kingfisher Airlines' financial distress?



competitive, with low-cost carriers offering cheaper alternatives. Kingfisher's premium pricing struggled to attract sufficient passengers, leading to revenue shortfalls.

FIGURE 2

### Q.2 How did the pre-IBC legal framework affect the duration of Kingfisher Airlines' bankruptcy proceedings?



**Result:** - According to the Survey **42%** held that pre-IBC legal framework affected the kingfisher airlines bankruptcy proceedings by **Creating confusion among stakeholders** as pre-IBC system involved multiple, sometimes conflicting, laws and procedures, causing confusion among stakeholders such as creditors, employees, and shareholders. This confusion made it difficult for creditors to recover dues and often led to conflicting claims and priorities. Moreover **35%** held that pre-IBC affected the bankruptcy proceedings of Kingfisher by **Led to prolonged delays and legal disputes** as under the pre-IBC regime, there was no unified, efficient approach to bankruptcy resolution. Bankruptcy cases were handled under multiple laws, which led to lengthy court battles and inefficiencies in managing insolvent companies.

In Kingfisher Airlines' case, the absence of a structured, time-bound framework led to years of delays and drawn-out legal disputes involving creditors, banks, and other stakeholders.

FIGURE 3

**Result:** - According to the Survey **72%** held that in a hypothetical situation IBC would have changed creditor engagement in Kingfisher airlines by ***Increasing creditor control through the committee of creditors (CoC)*** - IBC introduced the concept of the Committee of Creditors (CoC), a key body comprising the financial creditors of the debtor company. The CoC plays a central role in the insolvency process, having the authority to decide on the resolution plan and the future of the company, thereby giving creditors a structured and powerful role in the proceedings. Under the IBC, the CoC would have allowed creditors in the Kingfisher Airlines case to participate actively in decision-making, thereby speeding up the process and aligning outcomes with creditor interests.

**Analysis:** - The other three options are incorrect

as the IBC increased transparency in the insolvency process by establishing clear rules and a structured framework for creditor engagement. The CoC meetings, regulatory oversight, and mandated disclosures help ensure transparency and accountability in negotiations and decisions. **And** the IBC increased creditor input significantly compared to the pre-IBC framework, where creditors had limited control over decision-making. By forming the CoC, the IBC empowered creditors to make key decisions regarding resolution plans, liquidation, or other restructuring options. **And** as under the IBC, the control of the debtor's management is transferred to an Insolvency Resolution Professional (IRP) during the insolvency process. The CoC oversees the IRP, and major decisions require approval from the CoC, thus reducing the power of the existing management to make unilateral decisions.

### Q.3 In what ways would the IBC have changed creditor engagement in Kingfisher Airlines bankruptcy process?

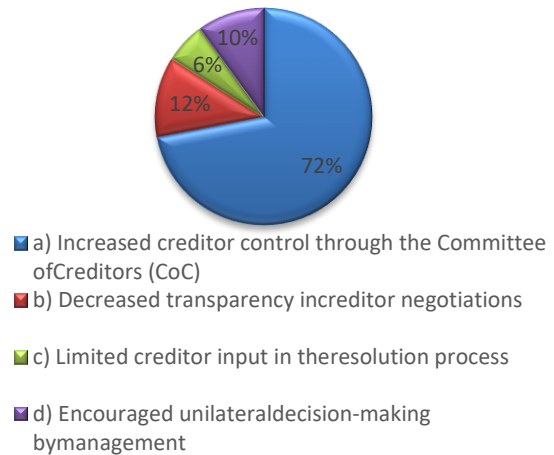
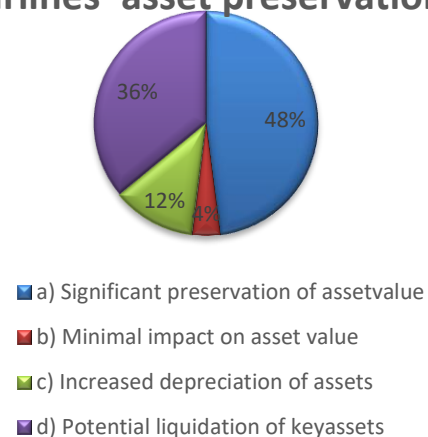


FIGURE 4

**Result:** - According to the Survey **48%** held that time bound resolution under IBC had a ***significant preservation of asset value*** as time-bound resolution could have helped preserve some asset value for Kingfisher Airlines by ensuring that assets like aircraft and brand value were not left idle or unsold for extended periods. However, given the level of debt and operational issues Kingfisher faced, not all asset values might have been preserved entirely. Swift action would have likely helped but may not have fully restored the asset value. Moreover **36%** held that there was ***Potential liquidation of key Assets*** as it is a likely outcome of a time-bound resolution under IBC. If a resolution plan or buyer could not be identified quickly, liquidation might be necessary to recover value for creditors.

In Kingfisher's case, this could have led to selling off valuable assets like aircraft and equipment, which could quickly generate funds but also potentially mean losing core assets essential for any possible revival.

### Q.4 What impact would time-bound resolutions under the IBC have had on Kingfisher Airlines' asset preservation?



## xFIGURE 5

### Q.5 What types of restructuring options could have been available to Kingfisher Airlines under the IBC?



**Result:** - According to the Survey **94%** held that **All of the above are correct**, since each option (a, b, and c) is a viable restructuring strategy under the IBC, the combined option of "All of the above" is the most accurate.

**Analysis:** - **Debt-for-equity swaps:** This is a standard restructuring tool under the IBC. A debt-for-equity swap could allow creditors to convert part of Kingfisher Airlines' debt into equity, reducing its debt load and giving creditors a stake in the business. This would align creditors' interests with the airline's long-term success and could have made the company more attractive to potential investors.

**Strategic mergers with other airlines:** Mergers are viable restructuring options under

the IBC and can be especially beneficial for struggling companies like Kingfisher. A strategic merger with a stronger or more stable airline could have provided Kingfisher with the operational expertise, financial resources, and customer base needed to revitalize its business. This option would also help preserve key assets and routes while leveraging the partner airline's established infrastructure. **Operational turnaround plans:** Under the IBC, operational restructuring and turnaround plans can be part of the resolution strategy to improve efficiency and profitability. For Kingfisher, this could have involved cost-cutting measures, optimizing fleet usage, renegotiating contracts, or realigning routes to increase revenue. An effective operational turnaround could have made the airline more sustainable in the long term and attractive to new investors.

### Tertiary Data Collection [Interview]

To add qualitative depth, semi-structured interviews were conducted with legal experts, insolvency professionals, financial analysts, and former creditors of Kingfisher Airlines. These interviews helped in capturing firsthand perspectives on the effectiveness of the pre-IBC framework and the impact of the IBC on India's insolvency landscape.

**Question: 1** How did the lack of a centralized insolvency process before the introduction of the IBC impact creditor recovery rates? (CA M. Kushwaha, Director, INSOLVENCY ADVISORS) *"Before the implementation of the Insolvency and Bankruptcy Code (IBC) in India, the lack of a centralized insolvency process significantly impacted creditor recovery rates. Without a standardized and efficient framework for handling insolvency cases, creditors faced considerable challenges in recovering dues from insolvent companies. Firstly, creditors had to navigate multiple laws and agencies, such as the Companies Act, SICA (Sick Industrial Companies Act), and Debt Recovery Tribunals (DRTs). Each law had its own processes, timelines, and jurisdictional complexities, leading to lengthy delays in case resolutions. This lack of cohesion made it challenging for creditors to quickly resolve cases and recover their dues, often resulting in prolonged insolvency proceedings. Additionally, the absence of strict timelines in these processes often allowed companies to drag cases on for years, causing further asset deterioration. The assets of distressed companies would depreciate while cases remained unresolved, and by the time creditors could secure a judgment, the recoverable value would often be substantially diminished. Finally, the lack of a centralized process limited the chances of finding suitable buyers or restructuring solutions that could maximize recovery. As a result, the fragmented system often resulted in low recovery rates for creditors, with much of the asset value being lost to procedural delays and inefficiencies.*

*The introduction of the IBC addressed these issues by providing a unified framework with strict timelines, which streamlined the process and significantly improved creditor recovery rates by ensuring that assets retained their value through timely resolutions"*

**Question: 2** How does the experience of Kingfisher Airlines reflect the challenges faced by the aviation industry in India regarding insolvency? (Dr Aparna Trivedi, Bennett University) *"The experience of*

Kingfisher Airlines highlights several unique challenges that the aviation industry in India faces when it comes to insolvency. First, the airline industry is extremely capital-intensive and operates on thin margins, so any downturns in revenue or increases in costs—such as fuel prices—can quickly lead to financial strain. Kingfisher struggled with this as rising operational costs and high debt loads combined with competitive pricing pressures, ultimately pushing it into insolvency. Another challenge is the complexity of asset ownership in the aviation sector. Much of an airline's fleet is typically leased rather than owned outright, which complicates asset recovery for creditors during insolvency. In Kingfisher's case, leased aircraft couldn't be quickly sold or leveraged to repay creditors, which limited recovery options and made restructuring difficult. The Kingfisher case also reflects regulatory and operational challenges in the industry. Aviation in India is heavily regulated, and airlines must maintain certain standards and licenses to continue operations. Once Kingfisher began defaulting on payments and lost its license, it became harder to attract investors or buyers willing to take on those regulatory hurdles. Insolvency policies could consider these industry-specific issues, potentially streamlining certain processes for asset handling or regulatory compliance.

Kingfisher's experience underscores the importance of a specialized approach to insolvency in capital-intensive industries like aviation. Insolvency frameworks that consider asset leasing complexities, regulatory demands, and the importance of preserving brand value could help future cases in this sector. A well-structured policy could enable quicker, industry-specific resolutions that give airlines a better chance of survival and protect creditors' interests more effectively."

**Question: 3** What lessons from the Kingfisher Airlines case do you think could inform future insolvency policies in India? (Akash Chauhan, Student BA.LLB, NLU Delhi) "The Kingfisher Airlines case offers several valuable lessons that can guide future insolvency policies in India. One of the key takeaways is the **need for timely resolution**. Kingfisher's insolvency process was prolonged, leading to the devaluation of assets and eroding the airline's brand value. Policies that emphasize strict timelines and discourage prolonged proceedings can help preserve asset value and improve recovery rates. Another important lesson is the **emphasis on strong corporate governance**. Many of Kingfisher's challenges stemmed from poor management decisions and weak governance. Future policies should focus on accountability for corporate leaders, establishing early warning mechanisms, and requiring a higher standard of governance to address financial distress early and prevent it from escalating. Additionally, **asset preservation mechanisms** are crucial. In Kingfisher's case, assets like aircraft deteriorated in value due to inactivity. Policies could prioritize asset protection during insolvency proceedings, potentially through strategies like escrow arrangements or asset trusts, ensuring that these assets retain value for creditors. The case also highlights the importance of **prioritizing operational turnarounds when possible**. Kingfisher may have had a chance at revival with an effective turnaround strategy. Insolvency frameworks that encourage viable restructuring plans give distressed companies a better chance of recovery and ultimately benefit creditors as well. Finally, **creditor collaboration and transparency** proved essential. In Kingfisher's case, a fragmented approach among creditors delayed actions and complicated recovery. Policies that foster collaborative decision-making among creditors can ensure a more unified, effective approach to resolutions."

## HYPOTHESIS

This hypothesis sets the stage for exploring specific financial missteps, operational inefficiencies, and gaps in regulatory intervention. It also implies a broader relevance to similar cases within the airline industry, particularly in emerging economies with volatile market conditions and limited oversight structures.

"Kingfisher Airlines' bankruptcy was primarily driven by a combination of aggressive expansion strategies financed by high-interest debt, unsustainable operational costs, and inadequate regulatory oversight. This combination of factors ultimately led to a liquidity crisis, inability to meet creditor obligations, and eventual insolvency, suggesting that financial mismanagement and regulatory gaps play a critical role in the collapse of large airline companies in emerging markets."

Since its introduction, the IBC has facilitated the resolution of several high-profile corporate insolvencies in India, demonstrating its effectiveness in streamlining the resolution process. Some notable examples include:

- **Essar Steel:** Essar Steel's insolvency case was one of the earliest tests of the IBC's capabilities in handling large, complex insolvencies. In 2017, the NCLT admitted Essar Steel for insolvency resolution, and the CoC

approved a bid by ArcelorMittal for ₹42,000 crore (USD 5.6 billion). The case highlighted the IBC's ability to attract international bidders and ensure competitive asset recovery. Despite some legal challenges, the resolution process concluded in under three years—significantly faster than pre-IBC standards. The successful resolution of Essar Steel was a landmark case, proving that the IBC could handle large, multi-stakeholder insolvencies effectively.

- **Bhushan Steel:** Bhushan Steel was another major insolvency case where the IBC demonstrated its efficiency. In 2018, Tata Steel acquired Bhushan Steel through the IBC process with a winning bid of ₹35,200 crore (USD 4.7 billion). The acquisition helped Bhushan Steel reduce its debt significantly and preserved the company's operations. The Bhushan Steel case showcased the IBC's success in facilitating business continuity and attracting strategic investors, which were rare outcomes under the previous frameworks.
- **Jet Airways:** Jet Airways, a major airline in India, became one of the most prominent companies to enter insolvency proceedings under the IBC. Although the resolution process has been complex due to the airline's operational challenges, the IBC enabled stakeholders to pursue restructuring options, including bids from both domestic and international investors.

## FINDINGS AND DISCUSSION

This Part of Research Paper analyzes the outcomes observed in the Kingfisher Airlines case under the pre-IBC framework and examines the potential impacts of the IBC if it had been applied. The findings underscore the tangible benefits of the IBC's reforms and highlight areas where sector-specific enhancements could further strengthen insolvency outcomes.

### Recovery Rates and Creditor Satisfaction

In the pre-IBC framework, recovery rates in the Kingfisher Airlines case were remarkably low, with creditors recovering an estimated less than 20% of the total debt. Due to fragmented, time-consuming processes and a lack of centralized oversight, creditors faced prolonged legal battles and ultimately substantial financial losses. This led to dissatisfaction and limited incentive to invest in future turnaround strategies. In contrast, post-IBC cases have shown significantly improved recovery rates, with some reaching up to 43%. Under the IBC, creditors are empowered to initiate and control insolvency proceedings, and the process is governed by a strict time limit of 180-270 days, reducing delays. Applying the IBC framework to Kingfisher's case might have resulted in improved recoveries for creditors and avoided significant losses caused by depreciating assets.

### Asset Preservation and Depreciation

The Kingfisher Airlines case illustrates the problem of asset depreciation during prolonged insolvency proceedings. The lack of centralized coordination under the pre-IBC system led to the deterioration of high-value assets, such as Kingfisher's aircraft and maintenance infrastructure, which quickly lost value as they remained inactive. In the absence of mechanisms to manage and protect assets during insolvency, creditors' recoveries diminished further, and the assets' operational viability was severely compromised. The IBC's emphasis on quick resolutions could help mitigate such depreciation. A time-bound process would encourage faster asset sales, leasing, or restructuring arrangements, preserving more of the value for creditors. Additionally, a professional resolution manager overseeing the process could ensure that assets remain in operable condition, ultimately leading to higher recoverable value. The Kingfisher case suggests that **\*\*IBC's asset-preservation focus could have helped avoid substantial losses in this instance\*\***.

### Impact on Industry-Specific Insolvency Challenges

Kingfisher's case highlights certain industry-specific challenges that the IBC could address more effectively. The aviation industry has unique financial and operational demands, including high fixed costs, stringent regulatory requirements, and complex asset ownership structures, such as leased aircraft. These factors contributed to delays in recovery and complicated creditors' ability to recover losses when Kingfisher defaulted. The IBC's centralized framework and professional resolution approach provide a more streamlined process, but future policy adaptations may benefit from industry-specific provisions. For instance, insolvency policies could offer tailored asset management strategies for sectors like aviation, including mechanisms for leased assets and maintaining operational licenses. Policies encouraging faster regulatory compliance could also help distressed airlines maintain their assets, brand reputation, and

business continuity.

The Kingfisher Airlines insolvency serves as a critical case study in evaluating the evolution of India's insolvency framework. The introduction of the IBC represents a significant advancement over previous systems, with its streamlined, creditor-centric approach promising faster resolutions, better asset preservation, and improved recovery rates. However, the Kingfisher case also reveals areas where insolvency policies could be further refined, especially for high-risk industries. Through a targeted, industry-aware approach, future insolvency frameworks can better support creditor recoveries and promote a healthier corporate ecosystem in India.

## CONCLUSION

The Kingfisher Airlines bankruptcy represents a critical chapter in the evolution of India's insolvency landscape, offering valuable insights into the challenges of corporate insolvency in a rapidly developing economy. The airline's financial collapse in 2012 highlighted the inefficiencies of the pre-2016 insolvency framework in India, which failed to provide a structured and timely process for resolving corporate distress. The introduction of the Insolvency and Bankruptcy Code (IBC) in 2016 marked a watershed moment in India's corporate governance and insolvency management, offering a centralized, time-bound process designed to maximize asset recovery and expedite resolutions.

The most significant takeaway from this study is the improvement in resolution timelines and creditor satisfaction under the IBC. Prior to 2016, the insolvency process in India was characterized by fragmentation, with multiple agencies and legal bodies involved, such as the Debt Recovery Tribunals (DRTs) and the Sick Industrial Companies Act (SICA). These processes were inefficient, lacked centralized authority, and were prone to delays that resulted in asset devaluation and low recovery rates. In contrast, the IBC's streamlined, time-bound framework facilitates a more coordinated and efficient approach to resolving corporate distress. The centralized role of the National Company Law Tribunal (NCLT) under the IBC, combined with professional insolvency resolution practitioners, ensures that cases are dealt with expeditiously and that creditor interests are prioritized.

Had the IBC been in place during the Kingfisher Airlines insolvency, it is reasonable to assume that the case could have been resolved in a more timely and organized manner. The airline's assets, particularly its fleet of aircraft, could have been preserved or liquidated more effectively, preventing the significant depreciation that occurred under the old system. The IBC's focus on preserving the value of assets and maximizing creditor recoveries would likely have resulted in a higher recovery rate, which under the pre-IBC system was a mere fraction of the outstanding debt. This highlights the value of a well-defined, time-bound insolvency process in ensuring that distressed companies do not lose the opportunity for recovery due to prolonged legal battles.

However, while the IBC has brought significant improvements to the insolvency process, the Kingfisher Airlines case also underscores the sector-specific challenges that need to be addressed within the current framework. The aviation industry presents unique difficulties such as high capital costs, asset leasing arrangements, and strict regulatory requirements. These factors were critical in the case of Kingfisher, where the complexity of leasing agreements and regulatory compliance made asset recovery more difficult. Although the IBC provides a general framework for insolvency, there is room for sector-specific reforms, particularly for industries like aviation, which could benefit from more tailored provisions to handle leased assets and regulatory compliance efficiently.

Furthermore, the corporate governance issues that plagued Kingfisher Airlines, including mismanagement and lack of financial transparency, also emphasize the need for continued emphasis on accountability and early intervention. While the IBC has provisions to address the conduct of corporate promoters, additional safeguards for early detection of financial distress and stronger penalties for financial mismanagement could further prevent cases like Kingfisher's from escalating to bankruptcy.

In conclusion, the Kingfisher Airlines case provides a crucial lens through which the effectiveness of the IBC can be assessed. The IBC has undoubtedly enhanced the insolvency resolution process in India, providing quicker, more structured outcomes for creditors and businesses alike. Nevertheless, as this study demonstrates, further refinements, including sector-specific provisions and stronger corporate governance measures, are essential to address the unique challenges faced by industries like aviation. By continuing to build on the success of the IBC and adapting it to the specific needs of different sectors, India can foster a more resilient and efficient insolvency framework that promotes business recovery while safeguarding the interests of creditors, employees, and the wider economy.

