

Aligning Indian Insolvency Law with an IP-Driven Startup Economy

Vidya A R

Assistant Professor in Law
Christ Academy Institute of Law
Bengaluru, India
vidyasureskamath@gmail.com

Seema Nagaraj

Assistant Professor in Management
Christ Academy Institute of Law
Bengaluru, India
bseemal18@gmail.com

Abstract

Entrepreneurs fuel innovation by spotting opportunities, disrupting norms, and turning ideas into impactful ventures. Their willingness to take risks nurtures creativity, leading to novel products, services, and models. Innovation helps them stay competitive, adapt to evolving markets, and generate value, driving economic growth while advancing societal development and progress. Innovation oriented startups in India, particularly in deep tech, edtech, and digital technologies, increasingly rely on intellectual property (IP) as their primary asset. However, according to the Insolvency and Bankruptcy Code (IBC), 2016, IP is like any other asset during insolvency, without adequate protections or valuation frameworks. This creates significant challenges like IP is often undervalued due to limited technical expertise, licensee rights face uncertainty, and insolvency professionals lack adequate tools to manage intangible assets effectively. A major research gap lies in the absence of legal scholarship addressing the IBC's structural and procedural shortcomings in handling IP. While the IBC promotes entrepreneurship through mechanisms such as the Fast Track process, it does not recognize IP's distinct character or provide mechanisms to preserve its value in distressed situations. This study concentrates on the important question as to How Indian insolvency law should be restructured to treat IP as a distinct asset class, through valuation protocols, ownership safeguards, and procedural protections to strengthen innovation and improve outcomes for startups and creditors. Methodologically, the research involves: (1) Innovation and entrepreneurs (2) analyzing IBC provisions and case law; (3) comparing international practices, particularly from the developed countries like U.S. and U.K.; (4) engaging stakeholders including insolvency professionals, entrepreneurs, IP experts, and regulators; and (5) drafting reform proposals such as specialized IP valuation panels, licensing continuity frameworks, and targeted legal amendments. The expected outcome is a context-sensitive legal framework that enhances the treatment of IP in insolvency, safeguards innovation, supports entrepreneurs, and improves creditor recovery, ultimately aligning Indian insolvency law with an IP-driven startup economy.

Keywords

Innovation, Entrepreneurs, IP, IBC, Legal framework.