



## JOINT AUTHORSHIP OF THE COPYRIGHT

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### ABSTRACT

*The concept of 'Work in a Joint Authorship' is one of the oldest rights possessed by the people. This concept is ratified under the Copyright Act, 1957, which defines it as a work produced by the collaboration or collective initiative of two or more authors within which the contribution of each author is not distinct from the source contribution of the remaining authors. The subjective definition is not to be determined for joint authorship, which has been categorized as the role of judicial decision, suggestions, initiative, opinions of the jurist, and formal foreign court so, it is also essential to understand the Indian formal judgement and case laws. A provision statute similar to the UK copyright design, and patents act provides for joint authorship, which requires a significant amount of creative output. The joint author must participate in the written format and share the accountability for expressing ideas. Thus, in the light of these situations the author has discussed, in this article, the essentials of joint authorship, the problems in sharing the royalty to joint authors and at last has given suggestion to solve such problems.*

**Keyword:** Copyright, Joint Authors, Fixation, Originality, Royalty.

### Introduction

As per the understanding of the basic conceptual matter we, as a human always have a critical and intellectual mindset that everything which belongs to the individual should be under his or her possession irrespective of the nature or trait. In the contemporary world, globalization and privatization is also enrooting the subject matter in high concentration, as all the contribution have their own set of uniqueness which make the population astonish. From the ancient time till today each and every one wants their own signified credit which will be used as there earning as well as attribution for the defined work. In the historical contemplates all the rulers have their own antiques wherein their name has either been inscribed or have denoted their

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name as a remarkable critique.<sup>2</sup> There is always a fear that what if the work will be forged or cheated, then to avoid these circumstances every person has a right to apply for the copyright. This particular concept is not a new phenomenon but rather it is considered as one of the oldest rights which has been possessed by the people.

In the current scenario the most common terminology that has been highlighted is ‘Work in a joint authorship’ which ultimately means that work in such an order that there should be collaboration among two or more authors within which every person’s contribution should be unique not distinct in nature. As Indian economy is known for the progressive growth which will welfare the nation with modern efficient thought however the copyright concept is been ratified under the Copyright Act, 1957. The concept of ‘joint authorship’ is every viable to define but though the understanding towards the term is quite tricky.<sup>3</sup> An ambiguous subject for ascertaining the various factors for well-versing with the concept that has been defined under the act as- “a work which has been produced by the collaboration or collective initiative by two or more number of authors (person) within which the contribution of each author is not been labelled as distinct from the source contribution of the remaining authors”. However, the subjective definition is always not to be determined for joint authorship which have been categorized as the role of judicial decision, suggestions, initiative, opinions of the jurist, and formal foreign court that come into play.

As per the defined area segregated onto the codified intellectual property fundamental right is been relatively new, it is essential for analysing the understanding the Indian formal judgement and case laws on the subject for international levelled conventions.<sup>4</sup>

A provision statute which is similar to the worded under S. 2(z) of the act in India that is found within the UK legal procedure of the copyright design, and patents act. In the well-known authority wherein all the issue of copyright has been bifurcated as an essential ingredients for the joint authorship that would be provided in the defined sectors as – ‘a joint levelled author which must collaborate or cooperate with the other remaining author(s) for the production of the defined work. Subsequent and consequent authors which will not result in the defined set of work under joint authorship, however among the existence for the collaboration which must

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<sup>2</sup> Shilpa Sodhi, Joint Co-authorship in Copyrights, Legal services (28th Mar, 2022, 08:40 A.m.), <https://www.legalserviceindia.com/legal/article-7664-joint-co-authorship-in-copyrights.html>

<sup>3</sup> Sofia Bhambari, Joint Authorship of copyright works, Sbambriasvocates (28th Mar, 2022, 10:50 A.M.), <https://www.sbambriadvocates.com/post/joint-authorship-of-copyright-works>.

<sup>4</sup> Sana Singh, Term and ownership of copyright, Mondaq (28th Mar, 2022, 12:30 P.M.), <https://www.mondaq.com/india/copyright/970282/term-and-ownership-of-copyright>

be questioned for the fact as well as degree.<sup>5</sup> That the author must be providing with a significant amount of creative output for knowing the circumstances.’ Thus, for the joint author which is expected for contribution that have a significant amount of initiatives towards skills, examination tactics, labour, and efforts. Since the copy right should subsists for the expressing ideas in the literary work amount as the joint author must be participating in the written format and share the accountability for expressing the ideas.<sup>6</sup>

### **Research Questions**

1. Do violation of right can be imposed in joint authorship of fixation towards the royalty?
2. Does the situation of proportionate principle can lead to rise of paternity and integrity rights of the holder?
3. According to the contemporary judgement, is there are any situation which give arise too the dispute for pleading of equal fixation towards joint authorship and publication authority?

### **Research Methodology**

A standard form of doing the research and defined process such as philosophical perspectives, investigation regarding the crime scene, descriptive form of study, and scientific approach within which the researcher can gain an immense knowledge. It is a scientific discipline which pertains the definition and systematically, there are many appropriate ways through the discerning the subject matter of the scrutiny of the cases. Dealing with the adequate level of skills and approximation of the techniques for finding the relevant factors of the legal material for the adjudication of the judicial decisions. To cue from the defined decision of the legal research which can be bifurcated on a systematic finding as well as ascertainment of law within the identified topic or subject matter among this all the inquiry will be set into reviewing the judicial procedure. For making up the advancement in the field of science as well as law it is not an easy task to find out the vast mass of the legal statute which will be constantly under the rectification process or amended according to the supplements referred to the rules, regulations, orders, directives principles, and doctrines that will require a categorised method into the probe

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<sup>5</sup> Copyright: Joint Authorship, Bird & Bird (29th Mar, 2022, 15:35 P.M.), <https://www.twobirds.com/en/insights/2019/global/copyright-joint-authorship>

<sup>6</sup> Joint Authorship, University of California (29th Mar, 2022, 19:10 P.M.), <https://copyright.universityofcalifornia.edu/ownership/joint-works.html>

for undertaking the principles for defining the reasons of the law. The research which regulated with the ambit of the boards that are taken into consideration by the legislators, jurist, lawyers, or the scholars who are been under the practice for several year.

### **Research Design and techniques or tools used**

The method of research used in this project is doctrinal method and it will depend mainly on the secondary sources for this library form of research and the researcher has done some sort of sampling and data collection for better understanding of the defined project work. Since the topic chosen is more theoretical than analysis based, hence it is only appropriate to rely on works already produced on the topic. The doctrinal method is fully based on the given data which is used or already being published by some researchers or thinkers and that data is used in my research. The research part which is done by the practical skills then the analysis part becomes simpler. The research part which has further elaborate is Exploratory as well as Explanatory. As each topic will be well explained and well elaborated by the researcher and Exploratory to enhance the skill and technique understanding.

Within the topic which has been given to the researcher it is purely based on the Applied as well as pure legal research which elaborates as to find a perfect solution for diminishing the problem which can further be benefited for the public welfare and further it can be act under the press practical suggestion at the hands of the system. Within this subject the area where the research has been conducted have put under the criteria of practical knowledge within which it is live used by the people. The latter concentration is been under the observation on making the generalizing the work and formulation of the specified theory. The ideas have been originated because of various observations that have been discussed by some authors extensively. Justice as a matter of fact fails to have a perfect definition. Its purview changes with the change in situations and cases. It is both a political philosophy and a legal discourse. Hence, it is important to know the various areas where the concept is applied to know about the different ways of application. Justice is read more as a concept of fairness than a comprehensive moral doctrine which is applied to the structure of political and moral institutions.

Conditions which are precedent for Nationality or towards the Location of work

Although it is not at all necessary for believing in the joint authority of authorship for having a literal “writing” of the work, then they should be directly accountable for the appears and suggestion on the legal documents. As per the requirement which was to be described as the condition proportionate – ‘something which have an approximation to the penmanship’.

According to the Indian Copyright based law, there are an ample of certain essential condition for conferring the possession over the work jointly that should be applied to all the authors irrespective of the trait.

1. If the doubt is been raised on the cases of the published work or the piece of work which is already been published that has to be first published in India or if the matter is been printed outside the boundaries of India then the author have to be holding the citizenship of Indian country o the date of publication (defined date where the piece of research have been published) or if the author is dead then there should be the information when he/she died, or he /she should be a citizen of India at the particulate time of his/her death time.
2. According to the case of matter of research of an unpublished work, bifurcating the matter other than work done by the architecture, author(s), at the specified time for creating the matter of work which has to be the citizen living in the Indian border or lastly should mandatorily possesses the domicile of Indian nation.
3. In the defined case of the work which is been performed by the architecture, and the work that has to be located in the stance of India.<sup>7</sup>

In the recent judgement and case law that has been elaborated in the English Appealing court who have set out for the legal alleged principles for considering the circumstances by deciding the situation that – whether the individuals are joint author or hold ay authorship of the copyright work or not. In the subsequent answering which was retrial by the English intellectual property enterprises court which was furtherance applied towards all these principles for taking the condition into consideration form wherein the legal principles can be applicable whenever there will be quantifying of the shared group of joint authors. Judgement and pronouncement which is solely concerned with the highlights towards importance for ensuring that the people on the same page have authorship and eventually hold the copyright of the defined work. This would be especially categorised as a true incident whenever there is more of individual involved in a piece of work that raise a question of getting the joint authorship arise.<sup>8</sup>

### **Rights and obligation towards the Fixation of Royalty**

Authorship and collaboration with the competent authority are established for the functioning of commonplace within the publishing industry that may be illustrator which includes the

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<sup>7</sup> Krupa Thakkar, What do you need to know about joint authorship in India?, Academike (30th Mar, 2022, 09:10 A.M.), <https://www.lawctopus.com/academike/joint-authorship-in-india/>

<sup>8</sup> Joint Authorship, University of California (30th Mar, 2022, 10:10 A.M.), <https://copyright.universityofcalifornia.edu/ownership/joint-works.html>

copyrighted material and stuff by which owned by the author. Whenever the occurrence of the numerical critiques happen then the issue have arisen for the rights of getting incentives for the work defined or have been done from the side of publisher and authors. Recognition over the act which have probably questioned the work of creator have been allotted with the safeguarding rights for further level of protection. Any type of assignment towards the copyright can be conformed for the following set of formalities that should be written in legal formatting and duly signed by the assignor of the contract which could be functioned by the agent for getting authorisation of the deed; and secondly identification of the work, nature if the matter, specification of the right which will be allotted, the duration of employment, territorial jurisdiction and extent over the work criteria, and lastly the amount of royalty which will be considered for the amount pay. All the above critique is mandatory for procedural formatting and protecting the rights of the author.<sup>9</sup>

The fixation of royalty depends upon the copyright licencing that will be conform for implied form of legality documents that should be over the bounding agreement, whenever the author is been implied within the copyrighted form. The copyright licence which has been authorised for the protection of the work that would be contrary towards the terms and ruling according to the rights that have already been licensed among the copyright societies which shall be settled as void.<sup>10</sup> Furtherance, if the conditions defines that no copyright licence within the work that have make upon the cinematography that have filmed which can be affected upon the right of the authorship for claiming over an equal amount of share of the royalty and up to the consideration which would be payable in the situation like utilisation towards work and in other form of the communication in the public arena. Likewise, there will be no copyright infringement towards licencing in any of the work that make the sound recording which eventually do not harm any type of cinematography.<sup>11</sup>

### **Principles of the Joint Authorship: conditions applicable for possessing the copyright**

Dealing and handling the form of outsets which will allow the appropriate arrangement which can be put in such a place that it can obtain over the assignment which were given to the authors or licenses for all the joint authors. for obtaining the appropriate amount of arrangement which can be put in the places for avoiding the rest issues that can be organized for investing in the

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<sup>9</sup> Joint ownership and assignment of intellectual property rights, Lexology (30th Mar, 2022, 13:30 P.M.), <https://www.lexology.com/library/detail.aspx?g=6cf9c2fd-fc6c-4495-bce1-eff6921ee4aa>

<sup>10</sup> Joint Authorship and Joint work, IP Law Glossary (30th Mar, 2022, 17:25 P.M.), <http://www.ipglossary.com/glossary/joint-authorship-joint-work/#.Ym7CkdpBxPZ>

<sup>11</sup> *Supra* note 7.

field of copyright worked which can be inquiries and considered for the mitigating source of risk for resolving the issue of risk towards authorship disputes that can be obtained through the specified warranties and through indemnities from the purported among authors. According to the work which is done under the supervision of the joint authorship who would be contribute in the same efficient amount with distinct quality.<sup>12</sup>

- Collaboration – one of the most essential components of the joint authorship is to work collective and collaboration of the work which can differ in work but are not at all distinct. The work which is doe collectively is that type of matter which is produced for pursuant collaboration of the common design, wherein the undertake work which is performed jointly that should be possessing general outline for sharing the labour work. The important identification for the nature of interacting among the relevancy towards the fact of individual and among the nature of every person who have solely contributed with relation to the amount of work done. Another crucial element that would be recognised for the nature of interaction among individual suggestions and initiative for phrases wherein it can be provided under the editorial corrections and critique. Other than the course of the collaboration that they do not have any joint or co-author then the situation will be upheld by the single copyrights. Similarly, to the arm’s length subjective researcher that merely provides with some of the course of technical jargon, or an individual who merely act upon the sounding board that would not be a joint author. It is not been simple to handle the question of asking about the writing skills, as the author can collaborate in various different ways whenever it is been created for the working environment.

Authorship – an individual who have not been held for the joint authorship that arise the situation wherein it is contributed in the ‘authorised’, in simpler word it can be must crucial for significant amount of the skill area that could be involved for the creation of the work. Furthermore, it is not been corrected for concluding the process that only the individual who does all the writing arena thing that can be author, herein the concept of the authorship involve a broader line towards the end for a literal way of dramatic concept which would include the tactics and principle that an individual possess - like ‘creating the content, selecting the facts or gathering the detailed form of concepts, or towards the emotion side of the people’.

- Contribution – one of the critical though mandatory principle wherein the work which

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<sup>12</sup> Anupriya Dhonchak, Lizzo’s Copyright victory in truth hurts: joint authorship and follow-on works in the music industries in india, Spicyip (30th Mar, 2022, 22:55 P.M.), <https://spicyip.com/2020/09/lizzos-copyright-victory-in-truth-hurts-and-joint-authorship-in-musical-works-in-india.html>

will be categorised according to the amount of contribution which has been done of the individual, equal division of the work contribute to the expressive form of intellectual. For deciding the trait of work load it is subsequently categorised over the sufficient amount of justification in joint authorship that would test the contribution if element. This ultimately means if the author has to exercise in a free mode then the person should be creative and have an explicit choice for producing the relevant form of work which ultimately reflects the personality, suggestion towards the nature of matter, and stamping over the work which has been created.

- Non-distinctness from the contribution which is a little different from the actual individual contribution – a person which will not be settled as the joint author who have contributed in a distinct manner. In that particular case each and every author could be simply relying upon the copyright with the various different part. In the area of retrial as the court have considered by trying in the separate perspective and contribution which would bifurcate accordingly.<sup>13</sup>

Furtherance the law related to the copyright who have provided an author for creating the work for authorship that have at least first or primary instance, as the sole owner of the assignment even though the situation may imply the initial settlement of the sole ownership. Whenever there is more than one person who have involved in the defined authorship that have processed among the identity of the authors which do possess the rights and duties related to the authorship.<sup>14</sup>

#### Acts and critiques of the Authorship

1. Degree over the contribution for generating the thoughts and expression in different level – a mere arena of suggestion towards the ideas may be eventually used by the author or content generator in a piece of work which ultimately does not grant any type of joint authorship over the matter created. It was quite clear in the position of law and legal perspective that there would not be categorised onto the copyright over various set of ideas. Thus, within the order for claiming the joint authorship which was over the work as the claimant that should be contributed in the expression of perspective for the work which is generated. Such type of levelled contribution should be in need of non-equal contribution but as more of situation was in significant manner.

<sup>13</sup> Ananya Singh, the rights of the joint owners of intellectual property: an insight, I Pleaders (31th Mar, 2022, 11:25 A.M.), <https://blog.ipleaders.in/rights-joint-owners-intellectual-property-insight/>

<sup>14</sup> Bharat Sharma and Eesha Das, Critical Analysis of Joint Ownership of copyright, ZEST IP (31st Mar, 2022, 15:40 P.M.), <https://zestip.com/critical-analysis-of-joint-ownership-of-copyright/>



2. Tenants was in the common which cannot be termed as Joint tenants – joint authorship that can be settled for the own copyright as the tenant that was in common but eventually not be subjected as joint tenant. Within the absence of the perspective matter of any type of agreement even though towards the contrary statement – each of the implied equal share as o the death of one author or deceased author his or her share of contribution will go to the representative (legal heirs or legal ancestor). A situation wherein the joint authorship who have assign the rights for another circumstances without taking any prior permission from the remaining joint authors who have however showed the consent to all the joint authors as the primary requirement for granting the licensing of the occupation or else the interest for the purpose of copyright.
3. Right towards sue or been held convicted for violation – as a joint author who can sue or file any petition against the another party who have infringed and violated the rights or duties without getting any type of permission for the other side of the authors though it can be recovered through other set of remedial claims like compensation. However, it can be respect through the injuries who have been suffered by the shares for the copyright arena.
4. Terms over the copyrights – within the case law who have several conditions that have termed over the tenure of 60 years span which will be commenced after the death situation or deceased critiques. That ultimately depends on the varied level of factors that have several degrees of contribution and value towards the contribution.<sup>15</sup>

### **Speaking about the Case laws and pronouncement on Joint authorship within the international and national arena**

Co-authorship, joint authorship, and collaboration usually emerge upon the commonplace within the publishing industry that arise with the situation of hiring and getting credit of their work. In many researches the publishers may not considered for the sole authorship whenever the commissioned of the work done by the publisher which may set a utility arena, if the publishers fails to satisfy the essentials among the author that grants over the rights which includes – copyright of ownership. For working under the critiques, possessing the rights for the work that would be surely owned that was exclusively right for the authorship, and in order to hire the authors in equal duties. The publishers have to compulsorily prevent for loss towards the right that could prove the qualification as the jointly segregated work which can arise

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<sup>15</sup> *Supra* note 7.

through the work for creating an entirely portion for work in an efficient environment.<sup>16</sup>

Talking about the legal pronouncement – In the case of Institute for inner studies & Ors. V. Charlotte Anderson it was observed that the appellant has edited the matter and compiled all the lecture which was delivered. Wherein the prima facie of the given case law involve an adequate amount intellectual level of contribution towards the creativity of idea. Furthermore, the jurisdictional court also noted that after collecting, compiling, preparing the transcript, and scribing the lecture will be hard work. So, ultimately it was marked that the plaintiff could make the claim for contribution towards the authorship related to work. Similarly, there was another co-related judgement that give an expression over the joint authorship as *Najma Heptulla v. Orient Longman Ltd.* wherein the issue was elaborated as – whether the professor who have been translating and describing about the Maulana Azad ideology in English language which can be used as the joint authorship for working in the ‘India wins Freedom’ project. Accordingly, the high court deliver the judgement in both the language i.e. English and in Hindi for understanding the importance of subject matter. Thus, irrespective of the trait there were two people who have composed the pursuance over the work for the joint design which can be exercised through there intellects. Herein the joint work is compiled over the jurisdiction for getting the expression of thought in language of the work as the mode for understanding and medium for presentation of the work.<sup>17</sup>

In the case law of *Ramesh Sippy v. Shaan Ranjeet Uttam Singh* herein it was explained by Justice Kathawalla that made an essential highlight over the concerning matter of joint authorship within the restricting area of partnership firm. In the LLP and legal partnership association it was held that the firm owns over the copyright statement as the individual partners as the joint owners of the copyright essentials. The creation over the thought which involve the various approaches that also include the film, so that all the partners can own their copyright. Joint authorship of the person means that the ownership of the copyright has to be categorised with all the stream for imposing the rights separately as well as jointly. This specifically implies that there is one joint authorship that cannot use any type of power or authority over his/her work without getting permission or granting other different joint authors within the absence of an implied form of agreement.<sup>18</sup>

Other case law wherein the judgement was provided from Bombay High Court in the *Angath Arts Private Limited v. Century Communications* it was held that over the exploitation of the

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<sup>16</sup> *Supra* note 4.

<sup>17</sup> *Supra* note 12.

<sup>18</sup> *Supra* note 2.

authorship for holding the copyright towards the protection of work in every manner likewise – assigning the matter, transferring, licensing over the thought, or sub-licensing that must happen on jointly within the concurrence of the other joint authors. Allahabad decision have been echoed over the similar viewpoint in the Nav Sahitya Prakash and Ors. V. Anand Kumar who have held upon the judgement of joint ownership over the copyright that could not be acted without the consent of other joint possession grant on license in the copyright holder.<sup>19</sup> The judgement which was also cited on the decision of Chancery Division in *Powel v Head* wherein it was been disclosed that if one of the joint authors have granted to the license without the mutual consent of the other, which does not bind over the former. As the final concluding result the other joint owners can hold the authority of suing the licensee for the violation of rights.<sup>20</sup>

In the case of *Malabar Fisheries v CIT Kerala* which was been decided in the apex court and *Rajendra Kumar Sharma v. Brijendra Kumar Sharma* which was been over ruled in the Allahabad high court. That elaborated about the post dissolution or conditions applicable for the resignation from the partnership wherein the partner is barely not allowed and entitled for using the co-relative created work which can be functioned without the permission of the other partners as well. In the *Ramesh Sippy v. Shaan Ranjeet Uttam Singh* wherein in this it was clearly specified that an important observation was totally been concerned towards the joint authorship within the partnership firm. Since the partnership institute as it has been associated in the individual which was been held that whenever there is a partnership firms which was ultimately own the copyrights set of partners that are jointly owners of the copyright.<sup>21</sup>

## Conclusion

It has been delivered evidently that all the above judicial pronouncement has their efficiency towards the jurisprudence which reflect the scenario of present subjective matter for the joint authorship that has evolved over a long period of time. However, the decision of various different judicial case whether it is of India or abroad it has been subjected through the settlement of the primary factor towards the joint authorship which is been actively involved for the creation of new idea and expression of the work. Examining all the factual information if a person have their literary subjective matter idea, artistic work trademark, and including the efforts for initiating the expression of thoughts, both of the person enjoy the rights of ownership

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<sup>19</sup> *Supra* note 14

<sup>20</sup> *Supra* note 12.

<sup>21</sup> *Supra* note 7

but also one of the person is been held as the sufferer for exploitation of the fundamental rights. Consent and permission for taken or using the service holds an exclusive set of rights wherein no one is been solely benefited to the non-creditable work owner but also the person who have not initiated the doing. Thus, for collaboration within the future perspective that must enter into the contract for making the intention for collaborate upon the clearance or for avoiding the post scenario dispute. This is been undivided interest and mutual consultation have full right to sue, use, and licensing the work irrespective of the nature of work and extension towards their contribution.

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