

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 3949 of 2010(O&M)
Date of decision : September 8, 2015

M/s National Rice Traders and another

..... Appellants

Versus

Punjab State Civil Supplies Corp.Ltd.and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Saurabh Goel, Advocate
for the appellants.

Mr. Rakesh Gupta, Advocate
for respondent Nos. 1 and 2.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present appeal is to the impugned order dated 5.10.2009 whereby the objections filed against the award dated 27.8.2003 have been dismissed.

Mr. Saurabh Goel, learned counsel appearing on behalf of the appellants submits that the arbitrator has committed illegality and perversity in awarding compensation of ₹1,17,615.35/- which include interest @ of 21% per annum. Though, the objecting Court has reduced the interest from 21% to 9% per annum but has not taken into consideration the other averments.

He further submits that the counsel who

represented the appellant did not inform about the proceedings neither he appeared before the arbitrator and the award has been pronounced in his absence. Therefore, no evidence could be lead on behalf of the appellant.

Mr. Rakesh Gupta, learned counsel appearing on behalf of the respondents submits that the appellants were represented through counsel who filed vakalatnama and as well as reply, but thereafter on five occasions did not appear, thus, the claim sought by the respondents had gone un-rebutted. In essence, the miller did not rebut the averments made in the claim petition by leading any evidence in support of the reply.

He further submits that it is not a case of the appellant that they were not served with the arbitration proceedings as they were represented through a counsel. Even, the copy of the award dated 27.8.2003 was received by the appellant through registered A.D, thus, submits that no interference is warranted.

I have heard learned counsel for the parties and appraised the paper book.

The appellate court has reduced the rate of interest from 21% per annum to 9% per annum, which in my view, is in consonance with the settled law. As regards the objections filed on behalf of the appellant, same did not fall within the parameters of Section 34 of the Arbitration and Conciliation Act, 1996. Since the claim of PUNSUP has gone un-rebutted the appellant cannot be permitted to raise a grudge for the first time before the Objecting court and as well as before this Court in appeal filed under Section

37 of the Arbitration and Conciliation Act, 1996.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 8, 2015
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