

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.5075 of 2011 (O&M)

Date of Decision: 09.01.2015

Anil Kumar and others

....Appellant

v.

State of Haryana and others

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Rajesh Sethi, Advocate with Mr. Arun Biriwal,
Advocate for the appellants.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Navita Singh, J.

It is submitted by counsel for the appellants that the arbitration proceedings in the present case had commenced under the old Act of 1940 in which no limitation was prescribed for preferring objections to the award. In such event, Section 5 of the Limitation Act would apply and, therefore, the Tribunal had the power to consider the matter accordingly and condone the delay in case sufficient cause was found.

Counsel for the State admits that the proceedings had commenced under the old Act. After coming into force of the Arbitration and Conciliation Act, 1996, it was still provided that the proceedings which had commenced under the old Act of 1940 would be covered by the provisions of that Act and not by the new Act.

Counsel for the appellants in this regard relied on **Milkfood Ltd. v. GMC Ice Cream (P) Ltd., AIR 2004 Supreme Court 3145(1)**, in which it was discussed in detail about the provisions of Section 21 of the

old Act and new Act and also about Section 85 of the new Act. Though the old Act was repealed, it was provided that the provisions of the old Act would apply in arbitration proceedings which commenced before the new Act came into force unless otherwise agreed by the parties. Nothing was agreed by the parties here to submit to the jurisdiction under the new Act and, therefore, the provisions of the old Act would apply.

In such event, the matter is remanded to the Tribunal at Karnal for deciding the objections by the appellants afresh keeping in view the provisions of the Act of 1940. The impugned order is set aside with direction to the Court below to decide the matter afresh in accordance with law.

Parties/ counsel to appear before the Court below on 23.02.2015.

Appeal stands disposed of.

**(NAVITA SINGH)
JUDGE**

January 09, 2015
renu