

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.2776 of 2012 (O&M)
Date of decision : 20.08.2015

State of Haryana

...Appellant

Versus

Vipin Kumar Garg and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ravi Partap Singh, Asstt. A.G. Haryana.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the order dated 31.01.2012, whereby objections filed by the State against the award dated 30.09.2009 have been dismissed on the premise that objections raised are with regard to merits of the matters and are not/were not in consonance under the provision of Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act').

The Arbitrator has granted compensation of ₹4,85,030/- plus interest @ 18% p.a. as from perusal of the impugned order/judgment, objections noticed, by Additional District Judge, in my view are not in consonance with the provision of Section 34 of the Act i.e. to say not

against the public policy, principles of natural justice, against law or other party was prevented in not presenting the matter.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality or for want of reasons as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49 and Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698.** In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act. The Arbitrator has dealt with the dispute which was contemplated and was within the scope of it. The parties to the *lis* had participated in the proceedings and were given proper notice not only with regard to the appointment of the Arbitrator but viz-a-viz proceedings, in my view the award of the Arbitrator does not suffer from any illegality in as

much as the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

The award read as a whole is just, fair and reasonable and only certain claims have been granted which are duly been supported with reasons. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

No ground is made out for interference.

The appeal is accordingly dismissed.

20.08.2015

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**(AMIT RAWAL)
JUDGE**