

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

**FAO No.3766 of 2014 (O&M)
Date of decision:18.11.2015**

Jiwan Kumar

... Appellant

Vs.

PUNSUP and others

... 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. Aakash Singla, Advocate
for the appellant.

Ms. Deepali Puri, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

Appellant is in first appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as '1996 Act') against the order dated 26.03.2014, whereby, the objections filed under Section 34 of 1996 Act, for setting aside of the Award dated 17.12.2007 and corrected Award dated 31.01.2008, have been dismissed.

Mr. Aakash Singla, learned counsel appearing on behalf of the appellant submits that Arbitrator did not have the jurisdiction as

the dispute/claim of the PUNSUP was falling with the excepted clause of the agreement. The objecting Court has also committed illegality and perversity in not noticing the aforementioned fact and dismissed the objections. The correction of the Award was also beyond the period of one month.

Ms. Deepali Puri, learned counsel appearing on behalf of the respondents submits that rental claim or award reflects that any of the relief, envisaged in excepted clause has been granted then prays for dismissal of appeal.

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

The claim of PUNSUP was not falling with the excepted clause of the agreement. Even award of the Arbitrator does not reflect awarding of interest @ 21% and 31%, 1 ½ times of the costs, customs and rice, which as per agreement were falling with the domain of excepted clause. Even correction of the Award had been sought within a period of one month vide letter dated 15.01.2008 and the same has been corrected vide order dated 31.01.2008. The objections, in my view, were not within the realm/parameters of Section 34 of 1996 Act.

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 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. The arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

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*.

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 as well as order impugned. The award is perfect and justified.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

November 18, 2015
savita