

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

**CR No. 2906 of 2003 (O&M)
Date of decision: 27.01.2016**

State of Punjab

... Petitioner

versus

Shanti Sarup Singla Contractor

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Vandana Malhotra, Addl. Advocate General, Punjab.
Mr. Dinesh Gupta, Advocate, for the respondent.

K.Kannan, J.

The only point that arise for consideration is the tenability of an award on the issue of interest that has been granted by the Arbitrator prior to the date of arbitral reference, i.e., to commence from the date when some deductions were made by the State which according to the Arbitrator was not justified. It is in the context of 29 of the Arbitration Act, 1940, which allowed for grant of decree by the Court from the date of the decree. A 5-Member Bench of the Hon'ble Supreme Court brought on a reference in view of the divergent views interpreted Section 29 to mean that the Court decree which is made the rule of the Court itself cannot award interest before the date of the decree, but, the Arbitrator will have a power to award interest on the sums found due for a pre-reference period in the absence of any specific stipulations or prohibition in contract to claim or grant any such interest. This specifically answers a query raised of whether the Arbitrator could have awarded interest when there was no stipulation. It is actually the absence of the stipulation or prohibition that can fetter the jurisdiction and if there was no special prohibition, the Arbitrator would be competent to award the interest for pre-reference period also.

One limb of argument which is unaddressed is the extent of interference which is possible for Court to interfere is rate of interest guaranteed by Arbitrator, where there exist no provision for award of interest or stipulated rate of interest. These points have been considered by Hon'ble Supreme Court in State of Rajasthan Vs. Ferro Concrete Construction Pvt. Ltd., 2009 (12) SCC 1, where Court held award of interest at 18% per annum under the Arbitration Act 1940 was an error apparent on the face of the record. The Court further held that the pre-reference interest should be 9% in terms of interest Act, 1978.

In terms of pre-reference interest being restricted to 9%, I will uphold the award of interest by the Arbitrator for pre-reference rate as well at 9% as allowed by Hon'ble Supreme Court and restrict the interest from the date when arbitrator passed the award to the rate which is not more than the current rate of interest. This means the highest of the maximum rate at which different classes of deposits are awarded interest. I have verified the highest rate of classes of deposit is 11% for relevant year for which reference made, i.e. 18/05/1992. I modify the rate of interest from 15% to 11% for the period from the date of award of the Arbitrator.

The civil revision petition is disposed of as above.

(K.KANNAN)
JUDGE

27.01.2016
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