

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 446 of 2016(O&M)
Date of decision : May 2, 2016

**Punjab State Co-operative Supply & Marketing Federation
Ltd.Chandigarh**

..... Appellant

Versus

**M/s Shri Jagdamba Rice Mills through Munish Kumar Partner
and another**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. Nitin Kaushal, Advocate
for the appellant.**

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).
CM No. 1339-CII of 2016

This is an application under Section 5 of the Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 44 days in filing the appeal is condoned.

The application stands disposed of.

FAO No. 446 of 2016(O&M)

Punjab State Co-operative Supply & Marketing Federation Ltd. Chandigarh is in appeal against the dismissal of objections under Section 34 of the Arbitration and Conciliation Act, 1996 whereby objections seeking modification of the award as it was

not commensurating with claim.

Learned counsel appearing on behalf of the appellant submits that claim was to the tune of ₹1,57,94,856/- whereas the arbitrator assessed claim to the tune of ₹1,34,58,359/- along with interest @ 12% that it has come on record that ₹1,27,00,000/- has been deposited by the respondents towards the claim. As per policy dated 6.6.2000, promulgated by the State of Punjab, the arbitrator was enjoined upon an obligation to adhere to the same, therefore the amount should have been awarded as per the claim.

I have heard learned counsel for the appellant and appraised the paper book and of the view that the policy cannot be supplemented over and above the terms and conditions of the agreement. This view of mine is fortified from decision of this Court in FAO No. 806 of 2009 titled as **Punjab State Civil Supplies Corp.Ltd,Chd. and another Vs. Rajinder Kumar and another in FAO No. 806 of 2009.**

In view of the above, I am of the view that arbitrator being expert had examined the claim and counter claim thread bare and dismissed the same.

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. 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.

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.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

May 2, 2016
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