

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

ARBITRATION APPEAL NO. 8 of 2015

Osmanabad Janata Sahakari Bank Limited,
Osmanabad, through its Branch Manager,
Parmeshwar S/o Chandrabhan Supekar,
age 56 years occupation service (Branch Manager)

...APPLICANT

VERSUS

1. Narayan S/o Namdeo Sirsat,
age 40 years occupation agriculture and business
R/o Fawdewadi Taluka Renapur Dist. Latur
2. Angad S/o Manik Kendre,
age 45 years occupation agriculture R/o as above.
3. Baliram S/o Namdeo Sirsat,
age 48 years occupation & R/o as above.

...NON-APPLICANTS

Mr S.B. Choudhary, Advocate for applicant

Mr S.B. Munde, Advocate for respondent No.1

Mr N.D. Kendre, Advocate for respondents No.2 and 3

CORAM : NITIN W. SAMBRE, J.

DATE : 22nd November, 2017

ORAL ORDER :

This appeal is by original claimant before the Arbitrator.

2. The Arbitrator allowed the claim with 15% per annum

interest from the date of the reference with penal interest at the rate of 3% per annum on the arrears amount from the date of default till the entire claim amount is realized.

3. Order about payment of interest is opposed in appeal under Section 34 of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as “The Act” for the sake of brevity) at the behest of present respondents, whereby the learned Principal District Judge awarded interest at the rate of 9% per annum.

4. While inviting attention of this Court to provisions of Section 31(7)(b) of the Act, the learned Counsel for the claimant/present appellant would urge that the appeal needs to be allowed by restoring order of the Arbitral Tribunal whereby interest was awarded at the rate of 15% and 3%. He would then urge that the order of the Appellate Court is contrary to the provisions of Section 31(7)(b) of the Act .

5. Per contra, by relying upon judgment of the Apex Court in the matter of **Rajasthan State Road Transport Corporation Vs. Indag Rubber Ltd {AIR 2007 SC (Supp) 1856}**, the learned Counsel for the respondents would urge that reasonable interest as is ordered

to be paid by the Apex Court is 6% p.a. and what is awarded in the present case is 9% p.a. He would then urge that the award was passed by the learned Arbitrator, way back on 16th September 2005 and the respondents cannot be blamed for long pendency of the proceedings. He would urge that if the interest awarded by the Arbitral Tribunal is maintained, financial hardships would be caused.

6. If the claims of the rival parties are considered in the backdrop of scope of Section 37 of the Act, what is required to be noted is that the issue of award of interest by the Arbitrator need not have been interfered by the Court below under section 34 of the Act.

7. However, having regard to the fact that since September 16, 2005 the award remained challenged before the Court below, the only modification in the interest of both the parties that could be ordered is, interest @ 12% p.a. to be recovered.

8. With above observations, award stood modified and the appeal stands disposed of.

(NITIN W. SAMBRE, J.)

pjm