

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (L) NO.147 OF 2017
IN
ARBITRATION NO.1619 OF 2015

Union of India ..Appellant

Versus

M/s. Motor & General Sales Ltd., ..Respondent

Mr. Suresh Kumar a/w Ms. Priyanka Tiwari, Advocate for the Appellant.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.

DATE : 11th JULY, 2019

P.C.

1] Having heard learned counsel for the Appellant, we find no merit in the Appeal. Relevant facts are that the Appellant and the Respondent had entered into an agreement under which the Respondent was to supply 370 sets of Body Side Arrangement Assembled with Flap Doors and Body End Arrangement for BOXNR Wagon. There was a delay in effecting the delivery. The Appellant levied liquidated damages. The Appellant deducted money payable to the Respondent from the bills raised resulting in the dispute being referred to the arbitrator on account of the agreement containing an arbitration clause.

2] On 9th February 2015 Award was published against the Appellant with the reasoning that the damages were capable of being proved and the liquidated damages were the upper limit of the damages which could be levied and hence the sum deducted by the Appellant towards liquidated damages was payable to the Respondent.

3] The same is the view taken by the learned Single Judge.

4] In view of the law on the subject of levy of liquidated damages being clear that the quantum of damage prescribed in a contract is the upper limit of the damages which can be levied and where damages are capable of being quantified, within the upper limit prescribed, the quantified damages have to be awarded, the Appeal is dismissed.

N. M. JAMDAR, J

CHIEF JUSTICE