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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A.(CAD) NO.48 OF 2021

The Executive Director (TN&P)
Indian Oil Corporation Limited,
Marketing Division, Southern Region,
Indian Oil Bhavan, 139, Mahathma Gandhi
Road, Nungambakkam High Road,
Chennai 600 034.

... Appellant/Petitioner

Vs

H.Thiagaraj
Managing Partner,
M/s.Shanthi Super Service,
Kothagiri 643 217.

... Respondent/Respondent

Appeal filed against the Judgment and Decree dated
17.12.2020 passed in O.P.No.402 of 2016 on the file of original
side of this Court.

For Appellant : Mr.Abdul Hameed
for M/s.AAV Partners

J U D G M E N T

(Delivered by the Hon'ble Chief Justice)

The appeal is of limited scope and is confined to the award
of a sum of Rs.7.5 lakh, together with interest, on account of
employees engaged by the respondent in course of its dealership
and the running of an outlet for the appellant herein.

2. The grievance raised by the appellant is that despite the
arbitral tribunal negating the dealer's contention that the
dealership had been unlawfully terminated and disallowing a
claim for damages on such count that had been fashioned by the
dealer, the tribunal proceeded to consider a claim on account of
11 employees engaged at the outlet. The appellant refers to
paragraph 52 of the arbitral award dated March 26, 2016. The
tribunal refers to a letter dated September 4, 2008 which was
marked as Ex.C-18 in course of the reference.



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3. The claim on the basis of such document was that several employees had been engaged by the dealer and the severance of the employment of such persons entailed due compensation to be paid to them.

4. While it is, ordinarily, accepted that a dealership agreement may not be specifically enforced by the dealer against the principal and the termination thereof may not result in the dealership being revived, the consequence of the termination is a different matter altogether. It is possible that a dealership agreement is terminated midway through the tenure, when a claim for damages may be maintained, despite a claim for continuation of the dealership agreement for the remainder of the tenure not being permissible.

5. In the present case, the termination of the dealership was found to be in order. As a consequence, the claim for damages carried by the dealer was repelled. However, despite the dealership agreement coming to an end and the principal not being found to be at fault, if the termination results in the loss of engagement or employment and visits the immediate employer with certain consequences, a claim on such count may be made by the dealer against the principal. In effect, despite the entirety of the claim in damages being disallowed, the matter has to be seen from the perspective of a particular head of claim being allowed to the extent that the arbitral tribunal found that it was a consequence of the termination of the dealership. The award on the relevant head appears, thus, to be sufficiently justified.

6. The next limb of the appellant's objection pertains to the quantification of the amount. Paragraph 52 of the award, quite candidly, refers to a "rough and ready" estimate being made by the tribunal in arriving at the figure. Not every claim, particularly in damages, is capable of assessment to any degree of arithmetical precision. In this case, 11 employees were found to have lost their engagement upon the termination of the dealership. Considering the nature of the activity that was involved, the tribunal found it appropriate to award damages to the extent of Rs.7,50,000/- in principal to the dealer for payment of compensation to the concerned employees, together with interest thereon.

7. It is elementary that the arbitral tribunal is the best judge of the quality and the quantity of the evidence before it on the basis of which it allows a head of claim. The arbitral tribunal may not have been satisfied with the material that was produced, but reckoned that "rough and ready figure" would be appropriate for 11 employees. Apart from the fact that the



matter was within the exclusive domain of the arbitral tribunal and cannot be regarded as an error of jurisdiction, the award of the quantum does not shock the conscience of the court nor does it appear to be opposed to any public policy or patently absurd.

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8. The challenge on such count received the due attention of the court of the first instance as the judgment and order impugned refers to the Hodgkinson's principle and the acceptance thereof, inter alia, in the judgment of Associate Builders, [(2015) 3 SCC 49].

9. For the reasons aforesaid, the judgment and order dated December 17, 2020 passed under Section 34 of the Arbitration and Conciliation Act, 1996 do not call for any interference and the arbitral award dated March 26, 2016 is left undisturbed.

O.S.A. (CAD) No.48 of 2021 is dismissed. Consequently, C.M.P.Nos.12281 and 12282 of 2021 are closed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Sub Assistant Registrar
Original Side, High Court,
Chennai-104.

+lcc to M/s.AAV Partners, Advocate, S.R.No.39888 (15/02/2022)

O.S.A. (CAD) No.48 of 2021

PVS (CO)
CT(17/08/2021)