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

FAO-552-2015

Date of decision: 13.01.2026

M/S BHARTI AIRTEL LTD.

...Appellant(s)

VERSUS

SAROOP SINGH AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

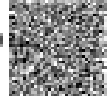
Present:- Mr. Sanjiv Pabbi, Advocate
for the appellant.

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

JASGURPREET SINGH PURI, J.

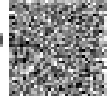
1. The present appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') challenging the judgment dated 19.08.2014 passed by the learned Additional District Judge, Tarn Taran, whereby the objections filed by the appellant under Section 34 of the Act were dismissed.

2. Mr. Sanjiv Pabbi, learned counsel for the appellant while narrating the facts of the case submitted that the son of respondent No.1 (since deceased) purchased a mobile connection bearing No.9915603649 on 26.12.2006 from the appellant-company, which is a service provider and the said connection was activated on the same date i.e. 26.12.2006 and thereafter, he continued to use the connection without any difficulty. However, on 05.09.2007, the son of



respondent No.1 met with an accident and unfortunately he died. Thereafter, respondent No.1 filed a complaint before the Consumer Forum seeking compensation but the same was withdrawn with liberty to file a fresh complaint. Subsequently, respondent No.1 filed a writ petition bearing No.CWP-18013-2009 before this Court, which was disposed of on 06.07.2010 granting liberty to respondent No.1 to raise an arbitration dispute before the prescribed authority of the Central Government under the provisions of Section 7B of the Indian Telegraph Act, 1885. Thereafter, the matter was referred to the learned Arbitrator, who passed the award dated 21.06.2011 by fastening liability upon the appellant to the tune of Rs.20 lakhs and Rs.5,000/- as costs of litigation for severe deficiency in service, mental and physical harassment and failure to provide grievance redressal mechanism, within thirty days from the issuance of the aforesaid award, failing which, it will attract interest @ 18% per annum.

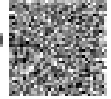
3. Learned counsel for the appellant submitted that as per the award, the learned Arbitrator awarded the aforesaid amount on the ground that on 16.08.2007, the outgoing calls from the mobile connection of the son of respondent No.1 were stopped and later on, even the incoming calls were also stopped. It was the claim of respondent No.1 that on 03.09.2007, the customer care service was approached but no action was taken and when the son of respondent No.1 met with the accident on 05.09.2007, he could not contact his father or anybody else due to the non-functional mobile network connection and he died because of excessive bleeding and delayed medical help since he could not inform anyone at the time of the accident and therefore on that basis, the learned Arbitrator awarded the aforesaid compensation to respondent No.1.



Thereafter, the appellant filed objections under Section 34 of the Act before the learned Additional District Judge, Tarn Taran, which were dismissed on 19.08.2014 and the learned Court observed that the learned Arbitrator had passed the award after giving full opportunity of hearing to both the parties and the award can be challenged only on the grounds which are incorporated under Section 34 of the Act but as per the learned Court, no ground was made out for interference and therefore, the present appeal has been filed by the appellant.

4. Learned counsel further submitted that the Department of Telecommunications had issued a directive dated 10.05.2005 (Annexure A-2) and another directive dated 22.11.2006 (Annexure A-3) regarding proper verification of the documents of connection holders and accordingly, it was the duty of the appellant to have verified the documents required to be submitted by all the subscribers, including the son of respondent No.1 and due to deficiency of the same, action was required to have been taken and therefore, barring of the mobile network connection cannot be construed to be fault of the appellant.

5. Mr. Pabbi further submitted that the learned Arbitrator has not considered that the death of the son of respondent No.1 was not a direct result of disconnection of the mobile services and as to how the disconnection of the mobile network services could have been a ground for grant of compensation does not get reflected in the arbitral award and therefore, no such compensation could have been granted. He further submitted that the scope of reference before the learned Arbitrator was very limited to decide the deficiency of service as per Section 7B of the Indian Telegraph Act, 1885, but compensation could not have been granted under the aforesaid provision. He referred to the

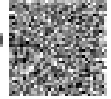


judgment passed by Hon'ble Supreme Court in **D.C.M. Ltd. versus Municipal Corporation of Delhi, 1997 (7) SCC 123** to contend that the Arbitrator cannot go beyond the scope of reference. He also referred to another judgment passed by Hon'ble Supreme Court in **Oil and Natural Gas Corporation Limited versus SAW Pipes Limited, 2003 (5) SCC 705** to contend that the Arbitrator cannot go beyond the mandatory procedure prescribed and also referred to the judgment passed by Kerala High Court in **Ittyarah versus Simon, 1991 CivCC 370** to contend that Section 7B of the Indian Telegraph Act, 1885 makes the position very clear that only in cases of disputes between the subscriber and the telegraph authority, arbitration could be resorted to and not in cases where rival claims will have to be resolved in the suit.

6. On the other hand, learned counsel for respondent No.1 submitted that there is no illegality or perversity in the impugned judgment.

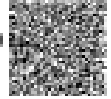
7. I have heard the learned counsels for the parties.

8. The son of respondent No.1, who was a student of B.Sc (IT), was driving a motorcycle on 05.09.2007, met with an accident and unfortunately died after a few hours. A perusal of the award and the objections decided by the learned Additional District Judge, Tarn Taran would show that the son of respondent No.1 purchased a mobile connection on 26.12.2006, which he was using and it was on 16.08.2007 that the outgoing calls were stopped and after few days, even the incoming calls were also stopped. The son of respondent No.1 approached customer care on 03.09.2007 and on enquiry, he was asked to deposit certain documents, which he deposited immediately. However, the connection was not restored till the time of the accident and when the son of



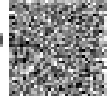
respondent No.1 met with an accident on 05.09.2007, he suffered injuries and subsequently, he died. It was the case of respondent No.1 that his son died due to excessive bleeding and delayed medical treatment as he could not contact anyone because of non-functioning of his mobile phone.

9. A perusal of the award would further show that the appellant, who was the respondent before the learned Arbitrator although filed a reply but failed to provide any information with regard to the mobile connection and rather specific queries were also put by the learned Arbitrator but the appellant-company did not respond to the same. The only defence of the appellant was that outgoing calls were stopped due to “bad verification report”. The learned Arbitrator gave another chance to the parties to provide any further information or document, if any, by post. The learned Arbitrator observed that on the basis of the documents so submitted by the appellant-company and the information supplied during the course of proceedings, it was the duty of the telecom service provider (appellant) to provide uninterrupted services and immediate redressal of grievances but it failed on both the counts. It was further observed that the appellant-company was unable to provide any evidence/document/witness/information in support of its defence and that it could not produce the basic documents of the mobile connection i.e. customer care form, date of stoppage of outgoing call services, the reasons thereof or the verification report. The mobile connectivity had stopped both ways and the appellant-company failed to explain as to why it was done and why it was not restored within the given time frame work. It was further observed that the stoppage of the incoming facility was also not explained, despite the fact that



the connection was a pre-paid connection with balance available and the facility of connectivity was denied without any reason or prior intimation and the purpose of the mobile that it is useful in case of emergency was completely defeated. In this way, the learned Arbitrator awarded compensation of Rs.20 lakhs and Rs.5,000/- as costs of litigation to respondent No.1 for severe deficiency in service, mental and physical harassment and failure to provide grievance redressal mechanism, within thirty days from the issuance of the aforesaid award, failing which, it will attract interest @ 18% per annum.

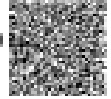
10. Before respondent No.1 laid a claim before the learned Arbitrator, he had filed a complaint before the Consumer Court, which he withdrew with liberty to file afresh and thereafter, he challenged the same before this Court by filing a writ petition bearing No.CWP-18013-2009 and a Coordinate Bench of this Court disposed of the said writ petition on 06.07.2010 granting liberty to respondent No.1 to raise an arbitration dispute before the prescribed authority of the Central Government, who shall on receipt thereof, act in accordance with Section 7B of the Indian Telegraph Act, 1885, within a period of two months of receipt of such complaint. A judgment passed by Hon'ble Supreme Court in **General Manager, Telecom versus M. Krishnan and another, 2009 (8) SCC 481** was also referred to by the Coordinate Bench in which it was held that the petitioner therein/respondent No.1 will not be able to file a complaint before the Consumer Disputes Redressal Forum in view of the special remedy under Section 7B of the Indian Telegraph Act, 1885. The relevant portion of the aforesaid judgment passed by a Coordinate Bench of this Court on 06.07.2010 is reproduced as under:-



*“Learned Amicus-Curiae points out that in view of the recent decision of the Hon'ble Supreme Court in **General Manager, Telecom versus M.Krishnan & another (2009 (8) SCC 481)**, the petitioner will not be able to file a complaint before the Consumer Disputes Redressal Forum as he has got a special remedy under Section 7-B of the Telegraph Act, 1885, which inter-alia, provides that in the event of any dispute concerning any telegraph line, appliance or apparatus, the dispute shall be determined by arbitration and for that purpose, the matter shall be referred to an Arbitrator appointed by the Central Government either specifically for the determination of that dispute or generally for the determination of disputes under this Section.*

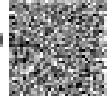
In this view of the matter, the writ petition is disposed of with liberty to the petitioner to raise an arbitration dispute before the Prescribed Authority of the Central Government who shall on receipt thereof, act in accordance with Section 7-B of the Telegraph Act, 1885, within a period of two months of receipt of such complaint.”

11. However, later in the year 2022, Hon'ble Supreme Court in **Vodafone Idea Cellular Limited versus Ajay Kumar Agarwal, (2022) 6 SCC 496** observed that the existence of an arbitral remedy will not oust the jurisdiction of the Consumer Forum and it would be open to a consumer to opt for the remedy of arbitration but there is no compulsion in law to do so and it would be open to a customer to seek recourse to the remedies, which are provided under the Consumer Protection Act. In this way, both the remedies are available to any consumer.



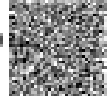
12. It was argued by the learned counsel for the appellant that the appellant, which is a telecom company was required to take action regarding those connections for which the subscribers had submitted deficient documents, in accordance with the instructions issued by the Government of India attached with the present appeal as Annexure A-2 and Annexure A-3. A perusal of the first instructions issued by the Government of India on 10.05.2005 vide Annexure A-2 would show that general directions were issued to all the CMTS Licensees/UAS Licensees with regard to the verification of identity of subscribers, wherein it is so instructed that the service providers are required to obtain the relevant proforma as annexed duly filled before providing the mobile telephone service to any customer. Therefore, these instructions were already in existence at the time the mobile telephone service was provided to the son of respondent No.1. A perusal of the aforesaid instructions would show that it was directed that “before providing the mobile telephone service to any customer, the relevant proforma was required to be obtained” and in the present case, even if assumingly the son of respondent No.1 did not provide the requisite documents, still he operated the connection for more than 8 months and therefore, it could not be construed as the fault of the son of respondent No.1 because it was the responsibility of the service provider to have made up the deficient verification requirements in accordance with the circular, which was already in existence as aforesaid.

13. A perusal of the second instructions as relied upon by the learned counsel for the appellant dated 22.11.2006 (Annexure A-3) would show that it was so directed by the Government of India to all the CMTS Licensees and all



the UAS Licensees to ensure that the connections are activated only after the requirement of filling up of customer acquisition form and copies of documentary proof and further if any discrepancy is found at any stage, the mobile connection shall be de-activated immediately and in any case not later than 72 hours. These instructions were also issued prior to the purchase of the mobile connection by the son of respondent No.1 and in case there was deficiency of some documents, then again it was a case of violation by the appellant-service provider and not by the son of respondent No.1 since as per the aforesaid circular, the connections will get activated only after the requirement of filling up of the customer acquisition form and copies of documentary proof and if any discrepancy is found at any stage, then the mobile connection would be de-activated immediately and not later than 72 hours, which means that even if a connection is granted by the appellant-company without any document or verification, then the same was required to be de-activated before 72 hours but in the present case, the son of respondent No.1 continued using the connection for about 8 months because he was granted the connection on 26.12.2006 and his services were disconnected on 16.08.2007 and therefore, by no stretch of imagination it can be said that the son of respondent No.1 was at fault at any stage.

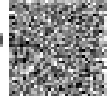
14. A perusal of the award would further show that rather the son of respondent No.1 had contacted the customer care on 03.09.2007 but the complaint was not properly addressed and on 05.09.2007, he met with an accident and died because of internal bleeding and delayed medical aid. Therefore, the reliance placed by the learned counsel for the appellant on the



aforesaid two instructions is totally misplaced and rather it goes to show that it was the appellant-telecom company, which had violated the aforesaid instructions itself.

15. It was argued by the learned counsel for the appellant that death of the son of respondent No.1 was not a direct result of disconnection of the mobile services. This argument raised by the learned counsel for the appellant is not sustainable in view of the fact that there is no material on record before the learned Arbitrator to show that the disconnection of the mobile connection was not a factor for the death of the son of respondent No.1. However, on the other hand, it has come on record that the son of respondent No.1 met with an accident while driving a motorcycle in the evening and, after about two hours, he died and it was the case of respondent No.1 that his son could not contact anyone due to disconnected mobile connection, which deprived him of immediate medical aid and he died because of excessive and internal bleeding. Once the appellant-company was unable to prove any such ground before the learned Arbitrator or even before the Additional District Judge, Tarn Taran, this plea is therefore not sustainable.

16. Another argument was raised by the learned counsel for the appellant that the provisions of Section 7B of the Indian Telegraph Act, 1885 would not be applicable in the present case and therefore, the aforesaid compensation could not have been granted to respondent No.1. However, as per the judgment of the Hon'ble Supreme Court in **Vodafone Idea Cellular Limited's case (Supra)**, the remedy lies before both the Consumer Forum as well as under the provisions of Section 7B of the Indian Telegraph Act, 1885.

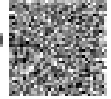


17. The argument of the learned counsel for the appellant was based upon the provisions of Section 7B of the Indian Telegraph Act, 1885, which are reproduced as under:-

“7B. Arbitration of disputes.—(1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section.”

18. A perusal of the aforesaid would show that the arbitration is rather a statutory arbitration provided under an Act of the Parliament. It provides that if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by arbitration and shall for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section.

19. In the present case, the dispute was referred to by the Central Government and an Arbitrator passed an award. The scope of Section 7B of the Indian Telegraph Act, 1885 is very wide and encompasses “any dispute concerning any telegraph line, appliance or apparatus”. Therefore, the argument raised by the learned counsel for the appellant that the compensation could not

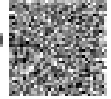


have been granted under the aforesaid provision is totally misconceived and contrary to law.

20. The reference made by the learned counsel for the appellant to the judgments passed by Hon'ble Supreme Court in **D.C.M. Ltd.'s case (Supra)** and **Oil and Natural Gas Corporation Limited's case (Supra)** is misplaced in view of the fact that there is no dispute with regard to the proposition that the Arbitrator cannot go beyond the scope of reference. However, in the present case, the arbitration is a statutory arbitration and the subject matter falls within the scope and therefore, the aforesaid judgments are distinguishable from the present case.

21. The reference made by the learned counsel for the appellant to another judgment of Kerala High Court in **Ittyarah's case (Supra)** is also misplaced in view of the fact that the dispute therein pertained to two persons, whereas Section 7B of the Indian Telegraph Act, 1885 would apply when there is a dispute with the telegraph authority and therefore, the aforesaid judgment is also distinguishable from the facts and circumstances of the present case.

22. This Court is of the considered view that the scope of Section 34 of the Act is limited only to the extent of the grounds incorporated therein. Similarly, the scope of Section 37 of the Act is also very narrow. Hon'ble Supreme Court in **M/s C and C Constructions Limited versus IRCON International Limited, 2025 (4) SCC 234** held that the scope of interference in an appeal under Section 37 of the Act is well settled and reference was made to the earlier judgments passed by Hon'ble Supreme Court in **Larsen Air Conditioning and Refrigeration Company versus Union of India and others,**



(2023) 15 SCC 472 and also in **Konkan Railway Corporation Limited versus Chenab Bridge Project Undertaking, (2023) 9 SCC 85.** The relevant portion of the aforesaid judgment in **M/s C and C Constructions Limited's case (Supra)** is reproduced as under:-

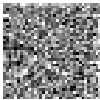
*“34. As far as scope of interference in an appeal under Section 37 of the Arbitration Act is concerned, the law is well settled. In **Larsen Air Conditioning & Refrigeration Co. v. Union of India**, this court held thus: (SCC P.478)*

“15. The limited and extremely circumscribed jurisdiction of the court under Section 34 of the Act, permits the court to interfere with an award, sans the grounds of patent illegality i.e. that illegality must go to the root of the matter and cannot be of a trivial nature; and that the Tribunal must decide in accordance with the terms of the contract, but if an arbitrator construes a term of the contract in a reasonable manner, it will not mean that the award can be set aside on this ground [ref : Associate Builders, SCC p. 81, para 42]. The other ground would be denial of natural justice. In appeal, Section 37 of the Act grants narrower scope to the appellate court to review the findings in an award, if it has been upheld, or substantially upheld under Section 34.”

(emphasis in original and supplied)

35. In Konkan Railway Corpn. Ltd. v. Chenab Bridge Project in para 18, this court held thus: (SCC P.93)

*“18. At the outset, we may state that the jurisdiction of the court under Section 37 of the Act, as clarified by this Court in **MMTC Ltd. v. Vedanta Ltd**, is akin to the jurisdiction of the court under Section 34 of*



the Act. Scope of interference by a court in an appeal under Section 37 of the Act, in examining an order, setting aside or refusing to set aside an award, is restricted and subject to the same grounds as the challenge under Section 34 of the Act.”

23. This Court is therefore of the view that in the present case, there is no scope for interference by this Court in an appeal under Section 37 of the Act on any ground. Consequently, the present appeal is hereby dismissed.

13.01.2026
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No