

**(2001) 11 JH CK 0030**

**In the Jharkhand High Court**

**Case No :** Appeal from Original Order No. 142 of 1994 (R)

Government of Bihar, Subarnrekha Multipurpose Project,  
Chandil

APPELLANT

Vs

Madhusudan Choudhary

RESPONDENT

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**Date of Decision :** 27-11-2001

**Acts Referred:**

Arbitration and Conciliation Act, 1996 — Section 37

**Citation :** (2001) 11 JH CK 0030

**Hon'ble Judges :** Gurusharan Sharma, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## **Judgement**

Gurusharan Sharma, J.—Some disputes arose between the parties over operation of contract dated 11.9.1984 in relation to the work of excavation and bed lining of Chandi) Left Bank Canal from Km 13.41 to Km 15.18, i.e., RD 44.00 to RD 49.80. under Subarnrekha Multipurpose Project, which was referred to sole Arbitrator, named in agreement, Md. Ahmad, Superintending Engineer. Soil and Foundation Design Circle, New Irrigation Barrack, North Harding Road, Patna. who passed the Award dated 21.4.1992. which has been made Rule of Court by impugned judgment dated 13.1.1994.

2. The contractor claim (i) Rs. 9 lacs for abnormal delayed payment of extra items of work done from September, 1984 to October. 1990. (ii) Rs. 6.36.602/- the balance amount for excavation done in hard rock but payment of 18753 M3 hard rock was made as soft rock @Rs. 36/- per M3 instead of Rs. 70/- per M3 (iii) Rs. 40,000/- being 10% amount deducted arbitrarily out of payment for excavated soil rocks in 1985, (iv) (a) Rs. 2,92,500/- and (iv)(b) Rs. 1,11,600/- respectively by way of interest @10% on Rs. 7.5 lacs for three years when machines remained idle as progress of work was delayed due to various failures of Department and wages of Munsis. Chowkidars. Khulusi -cum-cleaner engaged for security and proper keeping of deployed machinery for three years and Rs.

40000/- as cost of arbitration, besides interest @18% per annum on the above claimed amount from 29.10.1998 till realisation. The total amount of claim was Rs. 29,29,792/- besides interest.

3. The arbitrator awarded total amount of Rs. 7,59,525/- Rs. one lac towards item No. (i). Rs. 2,54,225/- for item No. (ii). Rs. 29,000/-for item No. (iii) and Rs. 2,92,500 and Rs. 73,800/- respectively for items (iv)(a) and (b). Cost of arbitration was awarded at Rs. 15,000/-.

4. The arbitrator assigned reason in respect of each items of claim and the Court below found that those reasons were correct.

5. Mr. B.B. Sinha. Government Advocate, appearing for the appellant-State Government submitted that in respect of item No. (i) of the claim an award of Rs. one lac relating to loss arising out of abnormal delay in payment of extra items of work done from September. 1984 to October. 1990 till the date of payment in November. 1990 was not justified, it is not in dispute that those extra item of works were allotted to and done by the contractor. The only hurdle in payment for those works was that department took abnormally a long period for about six years in fixing escalation price and by the end of October, 1990, total amount payable to the contractor was calculated at Rs. 13 lacs and was paid. So, in my opinion, amount of Rs. one lac awarded in respect of item No. (i) being even less than the interest amount accrued on the amount lying with department, does not call for any interference.

6. Mr. Sinha further submitted that since the Contractor was being paid the amount at the escalated rate for the works done, there was no occasion for granting interest. In the present case neither the arbitrator granted any interest, nor the Court while making the Award Rule of Court granted any interest for the period before arbitration was started or for the period of pendency of the arbitration proceeding. However, the Court below in the impugned judgment granted interest @13%, when the contractor was demanding 10% only from the date of award till realisation, which, in my opinion, also does not require any interference by this Court.

7. In such circumstances. I find no merit in this appeal. It is accordingly, dismissed, but without costs. Let the lower court records may be sent down.

8. Appeal dismissed.