

(2019) 09 DEL CK 0162

In the Delhi High Court

Case No : Civil Revision Petition No. 233 Of 2018, Civil Miscellaneous Application No. 45507 Of 2018

National Council Of Education Research & Training (NCERT)

APPELLANT

Vs

M/S Skywing Carriers Pvt Ltd

RESPONDENT

Date of Decision : 18-09-2019

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 31(7)(d)

Citation : (2020) 1 R.A.J. 630 : (2019) 3 RLR 324

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Ashok Kumar, Sushil Kumar Kabra

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

1. Petitioner impugns order dated 06.07.2018 whereby the petitioner has been directed to pay interest at the rate of 18% per annum on the awarded amount for the period post award till the date of payment of amount in terms of Section 31(7)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Arbitration Act) as it stood prior to the amendment of the Arbitration Act by Act 3 of 2016.

2. Respondent had filed statement of claim before the Arbitral Tribunal seeking recovery of certain amounts due to it for transportation of the books of the petitioner.

3. The Arbitral Tribunal by an award dated 09.03.2012 upheld the claim and awarded a sum of Rs.2,12,292/- in respect of bills admitted to have been passed by the petitioner after deduction of TDS, surcharge and E-cess and also awarded Rs.40,000/- as refund of the security deposit. The awarded amount was directed to be paid back with simple interest at the rate of 8% from the date on which the bills were passed till 20.9.2008 when the claim petition was filed. The Arbitral

award was silent with regard to pendente lite and post award interest.

4. Respondent filed the execution petition claiming recovery of the amount of Rs.2,52,292/- (i.e. Rs.2,12,292/- plus Rs.40,000/-) along with interest at the rate of 8% from the date of passing of the bill till 20.9.2008 totalling to Rs.70,033/-. The total awarded amount claimed was Rs.3,22,325/-. Besides the said amount, respondent also claimed statutory interest at the rate of 18% from the date of the award i.e. 09.03.2012 till the realisation of the said amount.

5. Respondent had claimed 18% simple interest as statutory interest in terms of Section 31(7)(b) of the Arbitration Act.

6. By the impugned order herein the Executing Court directed the petitioner to pay the awarded amount as noticed above alongwith interest @ 18% p.a. on the awarded amount in terms of Section 31(7)(b) of the Arbitration Act.

7. Aggrieved by the said direction, petitioner has filed the subject petition.

8. Learned counsel for the petitioner submits that the Executing Court has erred in modifying the award and has erred in awarding 18% instead of rate of interest @ 8% p.a. which was awarded by the arbitrator.

9. I find no merit in the contention of learned counsel for the petitioner. Perusal of the award shows that the arbitral award has awarded 8% interest till the date of filing of the claim petition. No pendente lite or post award interest has been awarded.

10. Section 31(7)(b) of the Arbitration Act as it stood prior to its amendment in 2015 reads as under:-

"(b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of eighteen per centum per annum from the date of the award to the date of payment."

11. Section 31(7)(b) of the Arbitration Act clearly stipulates that a sum directed to be paid by the arbitral award shall carry interest at the rate of 18% per annum from the date of award to the date of payment in case the award does not direct otherwise. It clearly implies that if the award is silent with regard to post award interest then the same has to be 18%, however, in case the award specifies a post award interest then the award has to be implemented as it is. 1

12. Clearly as the arbitral tribunal had not awarded any post award interest, the petitioners were liable to pay interest at the rate of 18% for the period post award till payment.

13. The executing court has not modified the award by granting 18% p.a. interest for the post award period, as contended by learned counsel for the petitioner, but has only directed payment of statutory interest in terms of Section 31(7)(b) of the Arbitration Act.

14. There is no infirmity in the impugned order dated 06.07.2018. Accordingly, I

find no merit in the petition. The petition is dismissed.