
(2016) 03 P&H CK 0357
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 5300 of 2010 (O&M)

Sr. Executive Engineer through Randhir Singh, Punjab State Electricity Board, Hoshiarpur APPELLANT

Vs

M/s Kular Constructions Ltd. RESPONDENT

Date of Decision : 22-03-2016

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34

Citation : (2016) 3 PLR 265

Hon'ble Judges : Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Vikas Chatrath, Advocate, for the Appellant; Mr. Arvind Mittal, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Amit Rawal, J. (Oral) - The appellant-Electricity Board is aggrieved of the awarding of the interest by the Arbitrator and dismissal of objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996.

2. Mr. Vikas Chatrath, learned counsel appearing on behalf of the appellant submits that Arbitrator has erroneously awarded the interest at the rate of 18% p.a., 16% p.a., 15% p.a., 14% p.a., 13% p.a. for respective period vis-a-vis up to the passing of the award and future interest at the rate of 18% as per the provision of Section 31(7)(b) of 1996 Act which is not permissible as it would tant-amounts to interest on interest and has relied upon the following case laws:-

(i) CR No. 2829 of 2012, Senior Executive Engineer v. M/s V.K. Construction Limited and another, decided on 20.07.2012.

(ii) Krishna Bhagya Jala Nigam Ltd. v. G. Harischandra Reddy, 2007 AIR (SC) 817.

(iii) FAO No.735 of 2009, State of Haryana and others v. M/s Ajit Construction Company, decided on 17.05.2011.

(iv) J.C. Budhraj v. Chairman, Orissa Mining Corporation Ltd. and another, 2008 (1) RCR (Civil) 934.

(v) Om Parkash Gupta v. Haryana State Agricultural Marketing Board, Chandigarh and ors., 1990(2) Cur.L.J. 23.

(vi) Rajasthan State Road Transport Corporation v. Indag Rubber Ltd., 2007(1) RCR (Civil) 47.

(vii) Rajendra Construction Company v. Maharashtra Housing & Area Development Authority and ors., 2005(4) RCR (Civil) 16.

(viii) Delhi Development Authority v. Anand and Associates, 2008(5) A.D. (Delhi) 82.

(ix) State of Rajasthan and another v. M/s Nav Bharat Construction Company with M/s Nav Bharat Construction Company v. State of Rajasthan, 2002 AIR (SC) 258.

3. Since award was against the public policy, objections were filed but the same were declined, reasonable interest ought to have been granted while considering the decline in the rate of interest and thus urges this court for setting aside of the award.

4. Mr. Arvind Mittal, learned counsel appearing on behalf of respondents submits that findings rendered by Hon''ble Supreme Court in State of Haryana and others v. M/s S.L. Arora and Co., 2010 (3) SCC 690 is no longer law in view of law laid down by Hon''ble Supreme Court in M/s Hyder Consulting (UK) Ltd. v. Governor, State of Orissa, 2015 (2) SCC 189, where it has been held that interest on interest is permissible and urges this Court for dismissal of the appeal.

5. I have heard learned counsel for the parties and appraised the paper book.

6. It would be apt to reproduce the relevant extract of the award, whereby interest has been awarded by the Arbitrator:-

"Considering the rates of interest on advance payments/risk purchase cases adopted by PSEB, corresponding to the interest rates charged by banks on overdraft facility since 1987-88, as any payment withheld by PSEB directly affects the quantum of the overdrafts availed by the Board, and also considering the declining rates of interest during the last some years, the following rates of interest are allowed up to the date of award.

(i) Simple interest @ 18% P.A. from the respective dates, when the amounts became due, up to 31.3.99.

(ii) -do- @ 16% PA from 01.04.99 to 31.03.2002.

(iii) -do- @ 15% PA from 01.04.2002 to 30.09.2002.

(iv) -do- @ 14% PA from 01.09.2002 to 31.03.2003 and

(v) -do- @ 13% PA from 01.04.2003 up to the date of award

7.17.7 Further interest on the award amount will be admissible to the claimant firm @ 18% PA as per Section 31(7) (b) of the Arbitration and Conciliation Act, 1996, w.e.f. the date of award up to the date of payment by the respondent board."

7. I am of the view that in view of ratio decidendi culled out by Hon''ble Supreme Court in M/s Hyder Consulting (supra), interest on interest is permissible and, therefore, appellant cannot be permitted to raise such pleas. There is no dispute to the judgment relied by the counsel for the appellant. In view of the latest judgment of Hon''ble Supreme Court, judgment of M/s S.L. Arora's case is no longer law.

8. Keeping in view the facts and circumstances, I am of the view that award is not against public policy and objections are not falling within the parameters of Section 34 of the Act.

9. No ground for interference is made out.

10. Dismissed.

11. It has been noticed that in pursuance to the notice of motion order dated 10.09.2010, amount so awarded by the Arbitrator has been deposited along with 9% interest.

12. Respondent shall be at liberty to seek execution of the award in accordance with law.