

31 Jan 2022

Sec 2(d) - Arbitrator tribunal

Election commission is a tribunal in constitution of India.

State of AP vs KM Rao 1994

SC appoint ex-officio arbitrator in this case by removing existing arbitrator.

Shiv Lal vs UOI 1975

Railway broad gauge line case

Railway has appoint a chief

Specific characteristics of Arbitral tribunal:

- Formation acc to the arbitral agreement.
- Appointment of arbitrator
- Jurisdiction
- Arbitral proceedings
- It is a quasi judicial body
- Disputes resolve acc to legal system
- Natural law of justice applied.
 - Nemo judex in causa sua. (If both the parties agrees to upon it to appoint the arbitrator then it is valid)
 - Audi alteram partem

Article 226 - Arbitral tribunal is a legal body

Anup equipment vs M/s Ganpati Co-op Housing, AIR 1999 Bombay

Sec 16, 17,

Sec 2(e) Court: First is session court and second is High court.

And if there is two different jurisdiction and then only the court in which the case first file

Hukam Singh vs Gammon India

2(f) International commercial arbitration: we're studying it in part 1 where as it is the international.

1 Feb 2022

Sec 2(1)(g): Legal Representative (विधिक प्रतिनिधि)

Definition - means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased, and, where a party acts in a representative character, the person on whom the estate devolves on the death of the party so acting.

- A person who in law represents estates (हैसियत) the deceased person.
- A person who intermediates with the deceased person.
- A person who is a successor of a deceased person.

What is the effect on the death of the party?

A notice has been given to the success of the deceased person and that person will become the party of deceased person.

(जो लेनदार है वही देनदार होगा)

End of the right after death:

- Right of Haq Shufa (हकसूफा का अधिकार) e.g. A & B are neighbour A sells his property to C; B as a neighbour claim his first right on A's property; then the court will give order in favour of B because he is neighbour and B has to buy it in the same price as A sells to C.
 - Suit by Injection; after death of a party the case will be closed.
 - Illegal arrest (arrest against the law); if it happens the compensation will not given to the successor.
 - Death on the post (service) than case may be resolved; it will not transfer to the successor.
- In these circumstances the right of the legal representative will be ended.

UOI vs Tecco Trichy Engineers and Contractors AIR 2005

Sec 2(1)(h): Party - Party to an arbitration agreement.

Sec 2(2): This part shall apply where the place of arbitration is in India.

(Part 1 - Domestic arbitration sec 2 to 43)

(Part 2 - Sec 44 to 53 New York Convention & 54 to 60 Geneva Convention)

(Part 3 - Conciliation sec 61 to 81)

(Part 4 - Sec 82 to 86 - Miscellaneous)

(हमारा परमिक court ही district session court है)

Sec 2(3): This part shall not affect any other law for the time being enforced by the virtue of which certain disputes may not be submitted to arbitration.

This act is a private law; it is not a public law.

Courts are of two type - Open and Closed.

2 Feb 2022

Sec 3: Receipt of written communications (Important)

Sec 3(1) - unless otherwise agreed by parties

Sec 3(1)(A): any written communication is deemed to have been received if it is delivered to the addressee personally or at his place of business, habitual (आभ्यसिक) residence or mailing address.

If not succeed in Sec 3(1)(A) then Sec 3(1)(B) will be implemented

Sec 3(1)(B): if none of the places referred to in clause (a) can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or by any other means which provides a record of the attempt to deliver it.

Sec 3(2) - The communication is deemed to have been received on the day it is so delivered.
संसूचना उस दिन प्राप्त हुई समझी जाएगी जिस दिन उसे इस प्रकार परिदत्त की गई है।

Sec 3(3) - This section does not apply to written communications in respect of proceedings of any judicial authority.

यह धारा किसी न्यायिक प्राधिकारी की कार्यवाहियों के संबंध में लिखित संसूचना के संबंध में लागू नहीं होती है।

District Magistrate And Anr. vs Jothisankar Air 1993 SC 2633

Communication made by telegram, the SC decided without sign no communication will be done.

Bipron Trading Sa vs Bharat Electronics Limited(Bel)

Decree - A suit file to implement the order of the court, order for that new suit is decree.

Sec 4: Waiver of right to object (**Important**)