

Supreme Court of India

B. Balaiah vs The Chief Engineer, Panchayat Raj ... on 20 July, 1995

Equivalent citations: 1999 (2) ARBLR 518 SC, 1999 (2) SCALE 157

Bench: S Bharucha, F Uddin, S Majmudar

ORDER

1. The appeals are directed against the judgment and order of the Andhra Pradesh High Court wherein it was held that the award in favour of the appellant before us had become invalid and void in toto. This was because it was a lump sum award in respect of the Claim Nos. 1 to 12 and, therefore, was an award in respect of Claim No. 9, which had been given up by the appellant before the Arbitrator, and Claim No. 11, in respect of which the High Court held that the Arbitrator had no jurisdiction. The High Court set aside the award, dismissed the suit filed by the appellant and allowed the civil revision application filed by the respondents.

2. The appellant had made 14 claims before the Arbitrator. The appellant did not press Claim No. 9, which was for the sum of Rs. 8,514/-(sic). However, in respect of Claim Nos. 1 to 12 the Arbitrator awarded the aggregate sum of Rs. 19,76,000/-. He gave no reasons for doing so nor did he give a break up of the amounts awarded against individual claims. He disallowed Claim No. 19 in its entirety and on Claim No. 14 for interest, he awarded it at the rate of 12% per annum.

3. In the judgment under appeal the High Court observed:

Such need for reasons is acutely felt in this case for the reason that though the appellant did not assail the correctness of the award in respect of Claim Nos. 1 to 8, 10 and 12, in view of the award being a non-reasoned one, we are precluded to probe into the mental process of the arbitrator to judge as to what extent his award is severable and the respondent is deprived of the benefit of the rest of the claims.

(Emphasis supplied)

4. this Court, on 23.3.87, directed the arbitrator to indicate the amount determined, at the time when he made the award, as payable in respect of Claim No. 11. The Court made it clear that no fresh award was intended. Pursuant to this direction, the arbitrator has informed the Court by a letter dated 8.4.87 that he had awarded the sum of Rs. 3,48,600/- in respect of Claim No. 11.

5. Having regard to the fact that the award gave a composite sum for the 12 claims and included therein a claim which the appellant had given up, there was clearly no case for upholding the award. Additionally, the High court found that the arbitrator had no jurisdiction to entertain Claim No. 11, so that no liability in respect of this claim could have been taken into consideration in awarding the aggregate amount for the 12 claims. However, particularly having regard to the fact that the correctness of the award was not assailed in respect of Claim Nos. 1 to 8, 10 and 12, this was not, in our view, a case for setting aside the award and dismissing the suit. The proper course would have been to remit the award to the arbitrator for consideration in the light of the High Court's judgment."

6. Now a further event has intervened, namely this Court's order requiring the arbitrator to indicate what amount he had awarded in respect of Claim No. 11 and the arbitrator's response that he had awarded Rs. 3,48,600/- in respect thereof. Even if we remit the matter to the arbitrator, there is no doubt that he would award this very amount in respect of Claim No. 11, and the correctness of the award in respect of Claim Nos. 1 to 8, 10 and 12 is not assailed. The claim in respect of Claim No. 9 is only Rs. 8,540/-. The just and proper course in the circumstances is to modify the award so that it is for Rs. 16,18,860/- (Rs. 19,76,000/-, being the amount awarded, minus Rs. 8,540/-, being the amount claimed in respect of Claim No. 9, and minus Rs. 3,48,600/- being the amount awarded in respect of Claim No. 11). The award in respect of interest is confirmed. The award as aforesaid is made a rule of the Court.

7. The appeals are allowed to the aforesaid extent. There shall be no order as to costs.