

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 7148 OF 2019
(Arising out of SLP(C) No(s).20159 OF 2019)

POST GRADUATE INSTITUTE OF
MEDICAL EDUCATION AND RESEARCH CHANDIGARH Appellant(s)

VERSUS

M/S KALSI CONSTRUCTION COMPANY Respondent(s)

J U D G M E N T

R. BANUMATHI, J:

Leave granted.

(2) This appeal arises out of the impugned judgment and order dated 10.05.2019 passed by the High Court of Punjab and Haryana at Chandigarh in FAO No.4045 of 2003 in and by which the High Court has dismissed the appeal of the appellant herein filed under Section 37 of the Arbitration and Conciliation Act and affirmed the Award passed by the Arbitrator including with regard to the rate of interest awarded by the arbitrator at the rate of 18% per annum.

(3) The respondent-M/s. Kalsi Construction Company was allotted a contract for construction of Advanced Pediatrics Centre of the Post Graduate Institute of Medical Research and Education. Regarding the completion of the work, dispute arose between the parties which was referred to arbitration. Learned Arbitrator by the Award dated 31.12.1999 awarded an amount of Rs.1,17,00,000/- (Rupees one crore seventeen lakhs) against claim of Rs.10,63,00,000/- (Rupees ten

crore sixty three lakhs) made by the respondent-Company. After referring to Section 31(7) of the Arbitration and Conciliation Act which vests authority to award the interest, learned Arbitrator awarded interest at the rate of 18% per annum. Challenging the award, the appeal preferred by the appellant-Institution under Section 34 of the said Act came to be dismissed which was affirmed by the High Court by the impugned judgment in the appeal preferred by the appellant under Section 37 of the said Act.

(4) We have heard Mr. Sudarshan Rajan, learned counsel appearing for the appellanat-Institution and also Mr. Naresh Markanda, learned senior counsel appearing for the respondent-Company.

(5) Mr. Sudarshan Rajan, learned counsel appearing for the appellant-Institution, on instruction, has submitted that the appellant-Institution is not pressing other grounds enumerated in the grounds of the appeal and is only praying for reduction of rate of interest.

(6) Mr. Naresh Markanda, learned senior counsel appearing for the respondent-Company, has submitted that so far as the rate of interest, the respondent is leaving that aspect to the discretion of this Court for considering the rate of interest. However, learned Senior counsel submitted that it should be a reasonable rate of interest since the award was passed in 1999 and the respondent is yet to be paid the award amount.

(7) In the absence of agreement to the contrary between the parties, Section 31(7)(a) of the said Act confers jurisdiction upon the Arbitral Tribunal to award interest unless otherwise agreed by the parties at such rate as the Arbitral Tribunal considers reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arises and the date on which the award is made. In the present case, the parties have agreed for the rate of interest at 18% per annum. However, since the award is of the year 1999 and considering the facts that the learned Senior counsel had left the matter to the discretion of the court. Considering the facts and circumstances of the case, in our view in exercise of the power under Article 142 of the Constitution of India, the interest at the rate of 18% awarded by the Arbitral Tribunal is to be reduced.

(8) Considering the fact that the contract relates to construction of Advanced Pediatrics Centre of the Post Graduate Institute of Medical Research and Education, Chandigarh and also other facts and circumstances of the case, in exercise of our power under Article 142 of the Constitution of India, the orders of the learned Arbitrator as affirmed by the High Court so far as the rate of interest is concerned is modified and the same is reduced from 18% to 10% per annum simple interest. The award amount along with the accrued interest at the rate of 10% per annum simple interest shall be payable to the respondent-Company within eight weeks from today failing which the entire award amount will carry interest at the rate of 18% as awarded by the Tribunal.

(9) The appeal is accordingly disposed of with no order as to costs.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
SEPTEMBER 2, 2019.