



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. IX th Semester

SUBJECT: COMPETITION LAW

SUBJECT CODE: BAL 901

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LECTURE 37

TOPIC: AWARD OF COMPENSATION BY THE COMPETITION APPELLATE TRIBUNAL

By Dr. Aijaj Ahmed Raj

Section 53N of the Competition Act, 2002 provides for the awarding of compensation by the Competition Appellate Tribunal.

Awarding compensation

53N. (1) Without prejudice to any other provisions contained in this Act, the Central Government or a State Government or a local authority or any enterprise or any person may make an application to the Appellate Tribunal to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any findings of the Commission or under section 42A or under sub-section(2) of section 53Q of the Act, and to pass an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by the Central Government or a State Government or a local authority or any enterprise or any person as a result of any contravention of the provisions of Chapter II, having been committed by enterprise.

(2) Every application made under sub-section (1) shall be accompanied by the findings of the Commission, if any, and also be accompanied with such fees as may be prescribed.

(3) The Appellate Tribunal may, after an inquiry made into the allegations mentioned in the application made under sub-section (1), pass an order directing the enterprise to make payment to the applicant, of the amount determined by it as realisable from the enterprise as compensation for the loss or damage caused to the applicant as a result

of any contravention of the provisions of Chapter II having been committed by such enterprise:

Provided that the Appellate Tribunal may obtain the recommendations of the Commission before passing an order of compensation.

(4) Where any loss or damage referred to in sub-section (1) is caused to numerous persons having the same interest, one or more of such persons may, with the permission of the Appellate Tribunal, make an application under that sub-section for and on behalf of, or for the benefit of, the persons so interested, and thereupon, the provisions of rule 8 of Order 1 of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to the application before the Appellate Tribunal and the order of the Appellate Tribunal thereon.

Explanation. —For the removal of doubts, it is hereby declared that—

(a) an application may be made for compensation before the Appellate Tribunal only after either the Commission or the Appellate Tribunal on appeal under clause (a) of sub-section(1) of section 53A of the Act, has determined in a proceeding before it that violation of the provisions of the Act has taken place, or if provisions of section 42A or sub-section(2) of section 53Q of the Act are attracted.

(b) enquiry to be conducted under sub-section (3) shall be for the purpose of determining the eligibility and quantum of compensation due to a person applying for the same, and not for examining afresh the findings of the Commission or the Appellate Tribunal on whether any violation of the Act has taken place.

Procedures and powers of Appellate Tribunal

53O. (1) The Appellate Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules made by the Central Government, the Appellate Tribunal shall have power to regulate its own procedure including the places at which they shall have their sittings.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely: -

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) requiring the discovery and production of documents;
- c) receiving evidence on affidavit;
- d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- e) issuing commissions for the examination of witnesses or documents;
- f) reviewing its decisions;
- g) dismissing a representation for default or deciding it ex parte;
- h) setting aside any order of dismissal of any representation for default or any order passed by it ex parte;
- i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 (2 of 1974) and Chapter XXVI of the Code of Criminal Procedure, 1973.

Exercise:

1. Who is the chairperson of Selection Committee for appointment of Chairperson and members of Appellate Tribunal?
 - a) Chairperson, CCI
 - b) DG, CCI
 - c) Chief Justice, Delhi High Court

d) Chief Justice, Apex Court of India

2. Retirement age of Chairperson of Appellate Tribunal

a) 65

b) 66

c) 67

d) 68

3. Retirement age of member of Appellate Tribunal

a) 65

b) 66

c) 67

d) 68

4. Every proceeding before Appellate Tribunal shall be deemed to be _____

a) Appeal proceeding

b) Suit Proceeding

c) Judicial proceedings

d) None of these

5. Which section of Indian Evidence Act, 1872 shall be applicable in proceedings of Appellate Tribunal?

a) 111, 112

b) 113, 114

c) 114, 115

d) 123, 124