



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B.

Semester: VIII

SUBJECT: Alternative Dispute

Resolution

SUBJECT CODE: BAL803

NAME OF FACULTY: Mohammad Aqib

Lecture-18



LECTURE 18 Correction and interpretation of award and grounds for setting aside an Arbitral award

SECTION 33. CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD. –

(1) Within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties

(a) A party, with notice to the other party, may request the arbitral tribunal to correct any computation errors, any clerical or typographical errors or any other errors of a similar nature occurring in the award;

(b) If so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(2) If the arbitral tribunal considers the request made under sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The arbitral tribunal may correct any error of the type referred to in clause

(a) of subsection (1), on its own initiative, within thirty days from the date of the arbitral award.

(4) Unless otherwise agreed by the parties, a party with notice to the other party, may request, within thirty days from the receipt of the arbitral award, the arbitral tribunal to make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

(5) If the arbitral tribunal considers the request made under sub-section (4) to be justified, it shall make the additional arbitral award within sixty days from the receipt of such request.

(6) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional arbitral award under sub-section (2) or sub-section (5).

(7) Section 31 shall apply to a correction or interpretation of the arbitral award or to an additional arbitral award made under this section.

GROUND OF SETTING ASIDE AN AWARD-WANT OF PROPER NOTICE AND HEARING, CONTRAVENTION OF COMPOSITION AND PROCEDURE.

SETTING ASIDE OF AWARDS:

The grounds for setting aside an award rendered in India (in a domestic or international arbitration) are provided for under **Section 34** of the Act. These are materially the same as in Article 34 of the

Model Law for challenging an enforcement application. An award can be set aside if:

- a) a party was under some incapacity; or
- b) the arbitration agreement was not valid under the governing law; or
- c) a party was not given proper notice of the appointment of the arbitrator or on the arbitral proceedings; or
- d) the award deals with a dispute not contemplated by or not falling within the terms of submissions to arbitration or it contains decisions beyond the scope of the submissions; or
- e) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties; or
- f) the subject matter of the dispute is not capable of settlement by arbitration; or
- g) the arbitral award is in conflict with the public policy of India. A challenge to an award is to be made within three months from the date of receipt of the same. The courts may, however, condone a delay of maximum 30 days on evidence of sufficient cause. Subject to any challenge to an award, the same is final and binding on the parties and enforceable as a decree of the Court. Considerable controversy has been generated as to whether an award is liable to be challenged under Section 34 on merits.

In Sanshin Chemical Industry v. Oriental Carbons & chemical Ltd., there arose a dispute between the parties regarding the decision of the Joint Arbitration Committee relating to venue of arbitration. The Apex Court held that a decision on the question of venue will not be either an award or an interim award so as to be appealable under Section 34 of the act.

In Brijendra Nath v. Mayank, the court held that where the parties have acted upon the arbitral award during the pendency of the application challenging its validity, it would amount to estoppel against attacking the award.

||