



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B.

Semester: VIII

SUBJECT: Alternative Dispute

Resolution

SUBJECT CODE: BAL803

NAME OF FACULTY: Mohammad Aqib

Lecture-20



LECTURE 20: Arbitral Award and its Essential elements

Arbitral Award:-

The arbitral award or arbitration award refers to an arbitration hearing decision made by an arbitration tribunal. An arbitral award is equal to a court judgment. An arbitral award may be non-monetary in nature where the claims of the entire claimant fail and there is no need for any party to pay any money.

An arbitration award may be given for payment of a sum of money, judgment of any matter to be decided in the arbitration proceedings, injunctive relief, substantive fulfilment of a contract and rectification, setting aside or cancelling an act or other document.

The arbitral award shall be defined as any arbitral tribunal's judgment on the nature of the dispute referred to it and shall include a temporary, interlocutory or partial arbitral award. The arbitral tribunal may grant an interim arbitral award on any matter for which it will make a final arbitral award at any time during the arbitral proceedings. The interim award may be applied in the same way as a final award of arbitration. Unless otherwise decided by the parties, a party may ask the arbitral tribunal to make an additional arbitral award in respect of the claims raised in the arbitral proceedings but omitted from the arbitral award within 30 days of receipt of the arbitral award.

An arbitral award can be categorised into:

1. Domestic Award: Domestic award are those awards which are the outcomes of domestic arbitration. It is confined to the territory of India, the parties should have a nexus or birth of Indian origin, the territory essentially comes into play for domestic arbitration purposes. The award given by an arbitral tribunal in India or an award, even if it is given by a foreign state for a dispute in which both parties are of Indian origin and the nationality is also regulated by Indian law, also falls within the scope of domestic arbitration.

Domestic awards are governed by Part I of the Arbitration and Conciliation Act, 1996. A domestic award is an award granted pursuant to Section 2 to 43 of the Act.

2. Foreign Award: Foreign Award is the outcome of Foreign Arbitration. If the parties choose a foreign arbitration institution or agree to an ad hoc arbitration overseas, the award granted after such proceedings shall be referred to as foreign award.

Part II of the Arbitration and Conciliation Act of 1996 deals with International Arbitration or Foreign Arbitration. Section 44 of the Act defines with Foreign Award.

In, Serajuddin v. Michael Golodetz The Calcutta High Court established the necessary conditions for an arbitration to be referred to as ‘ foreign arbitration ‘ or the essential elements of a foreign arbitration where the award could also be referred to as a foreign arbitration award. The important points laid were as follow:

1. “Arbitration should have been held in a foreign country.”
2. ”By a foreign arbitrator.”
3. “Arbitration by applying foreign laws.”
4. “One of the parties consists of foreign nationals.”

Essential Elements of Arbitral Award

- Should be in written form.
- Signed by the Arbitrator.
- Shall contain the reason for the passing of Award.
- Date and place at which the arbitration took place.