



FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B.

Semester: VIII

SUBJECT: Alternative Dispute

Resolution

SUBJECT CODE: BAL803

NAME OF FACULTY: Mohammad Aqib

Lecture-22



LECTURE 22: Appeals

It is sometimes said that arbitration awards are not normally subject to appeal (often another reason given in favour of using arbitration), but that is usually an over simplification.

Most countries in the world allow arbitration awards to be "challenged" although they usually limit the circumstances in which such challenges may be brought. The two most commonly permitted grounds of challenge are:

1. that the tribunal did not have jurisdiction to make the award; or
2. serious irregularity on the part of the tribunal.

Arbitration awards are non-justiciable. Distinguish from an "expert determination" where the expert determines a matter of fact (which is ordinarily not subject to any form of appeal at all, except in cases of obvious bias or manifest error or bad faith).

In addition, although not by way of challenge, many countries permit appeals on a point of law (although almost no countries permit appeals to be made in relation to findings of fact). This right is usually closely circumscribed to avoid undermining the commercial efficacy of arbitration.

SECTION 37- Appealable Orders:

(1) An appeal shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—

- (a) granting or refusing to grant any measure under section 9;
- (b) setting aside or refusing to set aside an arbitral award under section 34.

(2) An appeal shall also lie to a Court from an order granting of the arbitral tribunal.—

- (a) accepting the plea referred in sub-section (2) or sub-section (3) of section 16; or
- (b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

SECTION 50- Appealable Orders:

Appealable orders.—

(1) An appeal shall lie from the order refusing to—

- (a) refer the parties to arbitration under section 45;
- (b) enforce a foreign award under section 48, to the court authorised by law to hear appeals from such order.

(2) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

SECTION 59- Appealable Orders:

(1) An appeal shall lie from the order refusing—

(a) to refer the parties to arbitration under section 54; and

(b) to enforce a foreign award under section 57, to the court authorised by law to hear appeals from such order.

(2) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.