Dispute Resolution & Arbitration

Monthly Update
April 2022

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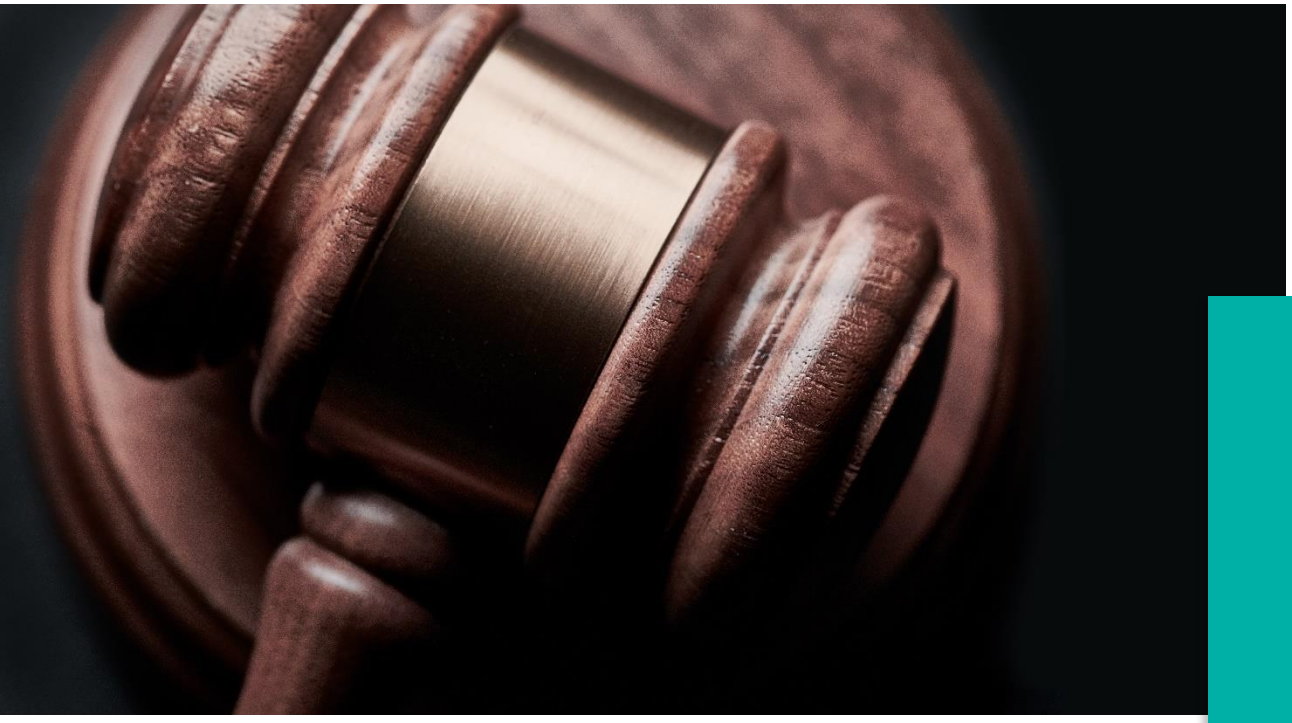
DISPUTE RESOLUTION AND ARBITRATION UPDATE



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Universal Petro Chemicals Ltd v. B.P. PLC and Ors

Civil Appeal Nos. 3127 and 3128 of 2009

Background facts

- A Collaboration Agreement was executed between Universal Petro Chemicals Ltd (**Appellant**) and Aral Lubricants, a German company (**Respondent No. 3**), under which the Appellant was required to manufacture lubricants using the formulation of Aral and was given exclusive license for distribution, blending, rebranding, and marketing of Aral lubricants in India (**Collaboration Agreement**). Subsequently, necessary approvals were obtained from RBI under the Foreign Exchange Management Act, 1973, which were incorporated in the Collaboration Agreement by way of a supplementary agreement.
- Later, Veba Oil, the holding company of Respondent No. 3 was acquired by B.P. PLC (**Respondent No. 1**), a UK entity, which was also the holding company of Castrol India Ltd (**Respondent No. 2**).
- Since the RBI approval was lapsing, the Appellant applied to the Ministry of Commerce and Industry for approval with respect to the royalty and extension of the term under the Collaboration Agreement. The Government accepted Appellant's request and extended RBI's approval; however, it was specified that the royalty was payable from January 01, 2003 to December 31, 2009 and the duration of the extended Collaboration Agreement would be from January 01, 2003, to December 31, 2009 by way of another supplementary agreement.
- Subsequently, Respondent No. 3 issued a termination notice claiming that the Collaboration Agreement would expire on October 31, 2004, as per Clause 5 of the Collaboration Agreement and that there would be no extension thereafter.
- Aggrieved by the termination notice, the Appellant filed a Civil Suit No.214 of 2004 before the High Court of Calcutta (**HC**) for specific performance of the Collaboration Agreement, as modified by the two supplementary agreements. The HC vide an interim order dated August 19, 2004, prohibited the Respondents from giving effect to the termination notice and interfering with the Appellant's usage of 'Aral' (**Interim Order**).

- The Interim Order was extended on three occasions and then it was vacated by the Single Judge Bench of HC vide Order dated January 10, 2005. Subsequently, the Single Judge Bench refused to grant a decree of specific performance of the Collaboration Agreement, but a decree of injunction was granted.
- Aggrieved by the Order of the Single Judge Bench of HC, the Appellant preferred an Appeal before the Division Bench of the HC, which dismissed the Appeal vide Order dated February 18, 2008.
- Aggrieved by the order passed by the Division Bench of the HC, the Appellant filed a Special Leave Petition, which was disposed of by the Supreme Court (**SC**) on August 24, 2005, with the direction for an expedited hearing in the suit. Thereafter, an Appeal was filed by the Appellant before SC for compensation in lieu of specific performance.
- Another Appeal was filed by Respondent No. 3 before the SC which questioned the Order of the Division Bench related to the perpetual injunction granted in favor of the Appellant.
- The counsel for the Appellant argued that the relief of specific performance of the Collaboration Agreement cannot be granted as the Collaboration Agreement expired on December 31, 2009, and by placing reliance on various cases, appellant was entitled for damages, even though such a relief was not specifically sought for either in the suit or in the Appeal before the HC.
- Against these assertions, the counsel for the Respondents contended that the judgments referred by the Appellant pertain to the award of compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, wherein the manner of calculation of compensation was either ascertainable or expressly agreed upon between the parties and are not applicable to the facts of the instant case.

Issue at hand?

- Whether compensation in lieu of specific performance can be granted under the Specific Relief Act, 1963, if not specifically claimed for in the plaint?

Decision of the Court

- At the outset, SC observed that the Appellant admitted to the fact that no relief for damages or compensation was claimed in the suit by the Appellant and such a relief was not sought for either before the Division Bench of HC or before the SC. The Court further noted that the Appellant also did not take any steps to amend the Appeal even after the date of expiry of the Collaboration Agreement i.e., December 31, 2009.
- Thereafter, SC examined the scope of Sections 21(4) and (5) of the Specific Relief Act, 1963 in *Shamsu Suhara Beevi v. G. Alex and Anr*[1], relied upon by the Respondents to contend that the Plaintiff, who has been remiss in expressly seeking the relief of damages under Section 21(5) of the Specific Relief Act, 1963, is not entitled for any such relief.
- SC observed that in the *Shamsu case (supra)*, the recommendations of the Law Commission of India were discussed, wherein it was recommended that in no case the compensation should be decreed unless it is claimed by a proper pleading. SC further noted that the Law Commission was of the opinion that it should be open to the plaintiff to seek an amendment to the plaint at any stage of the proceedings in order to introduce a prayer for compensation, whether in lieu or in addition to specific performance.
- Upon considering the facts in the instant case, SC held that no claim for compensation for breach of Collaboration Agreement was claimed either in addition to or in substitution of the performance of the agreement. With respect to the judicial pronouncements relied upon by the Appellant, SC held that they were not applicable to the instant case.
- Further, SC opined that the Appellant might have been interested in the relief of specific performance of the Collaboration Agreement when it filed the Special Leave Petition in 2008 as the Collaboration Agreement subsisted till December 31, 2009. Even thereafter, the Appellant did not take any steps to specifically plead the relief of damages or compensation.
- In view of the above, SC held that the Appellant is not entitled to claim damages for the period between August 24, 2005, to December 31, 2009, and thus, refused the request of the Appellant for grant of damages.

HSA
Viewpoint

This judgment elucidates that the Appellant had erred in asking for compensation under Section 21 of the Specific Relief Act, 1963, in addition to the relief of specific performance. In the absence of a prayer expressly seeking relief for compensation – either in the plaint or by amending the same at any later stage of the proceedings – compensation cannot be decreed unless it is claimed by a proper pleading. SC makes it abundantly clear that while drafting and filing of the plaint for any dispute with respect to specific performance, the party praying for reliefs should explicitly mention to claim damages in lieu of specific performance.

[1] (2004) 8 SCC 569

Tata Communications Transformation Services Ltd v. Assistant Commissioner of Income Tax & Ors

W.P. No. 1334/2021 and Other Tagged Matters

Background facts

- By way of the various Writ Petitions, multiple assessees challenged the initiation of assessment proceedings under Section 148 of the Income Tax Act, 1961 (**Act**) for different assessment years. All the notices in these Petitions for initiation of assessment proceedings have been issued after April 01, 2021.
- The cause of dispute arising in all these Writ Petitions is the validity of the assessment proceedings initiated against assessees after April 01, 2021 under the provisions of the Act, as it existed before April 01, 2021, read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (**Relaxation Act**) and the notifications issued thereunder.
- The controversy pertains to application of certain provisions of the Act, more specifically – Section 149 read with Section 148 thereof, which provided for the time period within which the revenue authorities were empowered to re-assess income, as it stood prior to the amendment introduced by the Finance Act, 2021 w.e.f April 01, 2021.
- Previously, under the un-amended Act, Section 149 provided that the Assessing Officer (**AO**) could re-assess the income tax paid by the assessee within 4 years from the end of the relevant assessment year. This time limit was further extended up to 6 years from the end of the relevant assessment year, if the income that escaped assessment was more than INR 1 lakh.
- However, the scheme of reassessment under the Act had undergone a complete transformation after the introduction of the Finance Act, 2021. The newly amended Section 149 of the Income Tax Act provides that the re-assessment could be undertaken by AO within a period of 3 years from the end of the relevant assessment year. However, where the AO has some evidence as to non-disclosure of income, and the income is more than INR 50 lakh, the AO has been empowered to reassess the income up to 10 years from the end of the relevant assessment year.
- Furthermore, several notifications issued by Central Board of Direct Taxes (**CBDT**), exercising its powers under the Relaxation Act, extended the time limit for the issuance of notice under Section 148 of the Act.
- The Revenue Department argued that it is empowered to issue assessment notice under the un-amended Income Tax Act, relying upon the notifications issued by the CBDT under the Relaxation Act. On the other hand, assessees argued that the Relaxation Act does not empower the authority to issue notices under the un-amended Act.

Issue at hand?

- Whether the assessment notices could be issued under the um-amended Act in light of the notification(s) issued by CBDT extending the time limit for the issuance of notices under Section 148 of the Act?

Decision of the Court

- At the outset, the Bombay High Court (**HC**) observed that several other high courts in the country had already decided the aforesaid issue in favor of the assessees. The Court held that the old provisions of Sections 147 to 151 of the Act have been substituted w.e.f April 01, 2021 by the Finance Act, 2021 and that a new Section 148 of the Act has been inserted w.e.f April 01, 2021. Accordingly, the old/un-amended provisions of Sections 148 to 151 ceased to have legal effect after March 31, 2021 and the substituted provisions of Section 148 to 151 have binding effect from April 01, 2021.
- The Court further emphasized on the absence of a saving clause in the amended provisions and observed that there is no legal device by which a repealed set of provisions can be applied and a set of provisions of the existing statute can be ignored.
- The Court noted that when an Act specifies that something is to be done in a particular manner, then that thing must be done in that specified manner alone, and any other method(s) of performance cannot be upheld. Consequently, the notices issued under Section 148 of the Act after April 01, 2021 must comply with the amended provisions of law and cannot be sustained on the basis of the erstwhile provisions.

HSA
Viewpoint

The Bombay HC decision is in support and conformity with the judgments of High Court of Allahabad in *Ashok Kumar Agarwal v. Union of India*[i], High Court of Delhi in *Mon Mohan Kohli v. Assistant Commissioner of Income Tax & Anr*[ii], Rajasthan High Court in *Bpip Infra (P) Ltd. v. Income Tax Officer, Ward 4(1), Jaipur*[iii], and High Court of Calcutta in *Bagaria Properties and Investment Pvt Ltd and Anr v. Union of India*[iv]. Considering the already existing precedents on the subject matter, the judgment of the Bombay High Court will further the goals of consistency & uniformity in the application of Income Tax Act pan-India.

[i] (2021 SCC Online All 976)
[ii] (2021 SCC Online Del 4717)
[iii] (S.B. Civil Writ Petition No. 13297/2021)
[iv] (W.P.O No. 244 of 2021 dated 17.01.2022)

- HC observed that Section 3(1) of the Relaxation Act merely extends the limitation period provided in the Specified Act, which includes the Income Tax Act, for doing certain acts but such acts must be performed in accordance with the provisions of said Acts. Therefore, if there is an amendment in the Specified Act, the amended provisions of the Specified Act would apply to such actions of the Revenue Department.
- In light of the aforementioned circumstances as well as the various judgments in similar matters passed by the various high courts in the country, the Petitions were allowed, and the impugned notices issued under Section 148 of the Act were quashed and set aside. Furthermore, the explanations to the Notification No. 20 of 2021 dated March 31, 2021, and Notification No. 38 of 2021 dated April 27, 2021, were declared ultra vires and decreed to be null and void.
- Lastly, it was left open to the AO's concerned to initiate fresh reassessment proceedings in accordance with the relevant provisions of the Act, as amended by the Finance Act, 2021, after strictly complying with the provisions of the Act.

Kasturi Sushma Khandekar v. State of Maharashtra & Ors

W.P. No. 3254 of 2021

Background facts

- In the present case, the parents of Kasturi Sushma Khandekar (**Petitioner**), dissolved their marriage in November 2009, when she was 7 years old. Subsequently, she was raised by her mother as a single parent, who belonged to Mahar Scheduled Caste. Therefore, the Petitioner grew in an atmosphere wherein customs, traditions and practices prevailed of Mahar caste.
- Thereafter, the Petitioner applied for Mahar Caste Certificate to the Caste Scrutiny Committee, (**Respondent No. 2**) but was refuted on the ground that the Petitioner ought to have furnished evidence from the side of her father instead of her mother, to prove her claim.
- Aggrieved by this, the Petitioner filed the present Writ Petition in the Bombay High Court (**HC**) to challenge the Order of Respondent No. 2.

Issue at hand?

- Whether a child raised by her mother is entitled to take the caste of mother?

Decision of the Court

- At the outset, the HC advanced that the social status of the Petitioner could be ascertained by the evidence regarding the manner in which and by whom the Petitioner has been raised. In this regard, the HC perused the vigilance report and the documents relating to school entry of the Petitioner and arrived at the conclusion that evidently, the Petitioner has been almost entirely brought up by her mother who belongs to Mahar Scheduled Caste. In addition, the HC also gave weight to the fact that during the Petitioner's admission to first standard in school, her mother showed the Petitioner as one belonging to Mahar caste.
- Furthermore, the HC took note of the findings of the Vigilance Officer that father of the Petitioner never cared for his two children and never related to them in any manner, nor did he take his children to any of his paternal relatives. Moreover, HC took in account that the Petitioner did not recognize any of the paternal relatives. In view of this, the Court conclusively determined that the evidence clearly reflects that for all purposes, the Petitioner has been raised in an environment conforming with customs, traditions and practices that prevail in a household inhabited by Mahar caste persons, which is the caste of the mother of the Petitioner.
- On the strength of principles laid down by the Apex Court in *Rameshbhai Dabhai Naika v. State of Gujarat and Ors*[2] followed by the HC in many of its judgments including the case of *Anchal d/o. Bharati Badwaik v. District Caste Scrutiny Committee and Ors*[3], the HC expressed that the above-mentioned evidence would, beyond a shadow of doubt, entitle the Petitioner to establish that she belonged to Mahar caste.
- As a result, the HC observed that by deviating from the law laid down in *Rameshbhai Naika (supra)*, Respondent No. 2 failed to properly appreciate the evidence brought on record by the Petitioner. Therefore, the Court summarized that the Petitioner is entitled to claim the same social status as her mother, as she was almost entirely brought up by her mother.
- In light of the above, the HC quashed the Order passed by Respondent No.2 and remanded the matter back for deciding the caste claim of the Petitioner.

HSA
Viewpoint

The HC's decision that a child raised by her mother is entitled to adopt her caste is a step forward in removing the hangover of enforcing the patriarchal cultural code on the descendants. The judgement is phenomenal in analysing the glaring error in the Order of the Caste Scrutinizing Committee and cautioning such administrative authorities to refrain from passing any Orders which fly in the face of law laid down by the SC.

[2] (2012) 3 SCC 400

[3] (WP No.4905 of 2018, decided on 8 April 2019)

Haryana Urban Development Authority, Karnal v. M/s Mehta Construction Company and Anr

CA No. 2693/2022

Background facts

- The dispute between Haryana Urban Development Authority (**HUDA**) (**Appellant**) & M/s Mehta Construction Company (**Respondent**) resulted from an agreement for construction of certain infrastructure. The Respondent approached the Punjab and Haryana High Court (**HC**) for referring the dispute for Arbitration.
- Thereafter, an Arbitral Award was passed in favor of the Respondent on December 20, 2013. Aggrieved by the same, the Appellants filed objections to the Award under Section 34 of the Arbitration and Conciliation Act, 1996 (**Act**) before the Additional District Judge, Karnal.
- By an Order dated January 08, 2018, the Additional District Judge held that the objections filed by the Appellants were barred by limitation, and therefore refused to modify the Arbitral Award.
- The Appellants, thereafter, filed an Application under Section 37 of the Act, before the HC, challenging the Order of the Additional District Judge. However, the HC upheld the Order of the Additional District Judge and refused to intervene in the matter.
- Aggrieved by the same, the Appellants approached the Supreme Court (**SC**).

Issue at hand?

- Whether the Courts are required to exercise in-depth examination, with proper and full application of mind, despite the Appeal against the award being barred by limitation?

Decision of the Court

- SC observed that the delay in filing the challenge before the Additional District Judge was only for short span, and also highlighted the fact that the reasoning of the Order wherein the Additional District Judge refused to condone the delay was cryptic.
- In light of the above observations, the SC set aside the Orders of the HC & that of the Additional District Judge, Karnal.
- The Court remitted the matter back to the Additional District Judge, Karnal, and directed that the objections to the matter be heard afresh and on merits without being influenced by the earlier Orders of the Additional District Judge and HC in the said matter.

HSA
Viewpoint

SC's decision very well points out the long-standing judicial stand of minimal interference with the Arbitral Award being limited only to certain grounds enumerated under Section 34 of the Act. The present case brings forward an interesting question of law – Whether the Courts would be inclined to interfere in an Arbitral Award, if the same is challenged after the limitation period has expired? In the instant matter, since the delay was not long and the Order of the Additional Judge was cryptic, the SC remitted the matter back to the Additional District Judge. However, it must be pointed out that in cases where the Order of the Courts as to condonation of delay w.r.t. limitation period are explicit and well-reasoned, no challenge to the Arbitral Award should be entertained, even in cases of patent illegality or any other grounds provided under Section 34 of the Act.

Kameshbhai Niranjanbhai Sopariwala v. State of Gujarat

R/Special Criminal Application No. 12607 of 2021

Background facts

- The Petitioner is the Attorney of the proprietor Robin Tex & Anmol Enterprises, who is engaged in the business of manufacturing and selling of art silk and grey garments. Based on the representations of the Accused, the Petitioner had sold Accused No. 2 grey garments worth INR 35,87,300 during the period between February, 2017 to March, 2017.
- According to the prevalent practice in the garment industry, the Accused was required to pay the money back to the Petitioner within 3 weeks from the date of supply of garments. However, the Accused failed to make payments to the Petitioner within the stipulated time and after multiple requests, the Accused issued 8 cheques in favor of the Petitioner which were dishonored.
- Aggrieved by this, the Petitioner filed a written complaint with the police authorities. However, after constant failure of the authorities to register a complaint and act on it, the Petitioner approached the High Court of Gujarat (**HC**) seeking directions for registration of FIR against the Accused.

Issue at hand?

- Whether the Petitioner could have approached the HC seeking directions to the police authorities for registration of the FIR, despite not having taken recourse to the remedy available under the Code of Criminal Procedure, 1973 (**CrPC**)?

Decision of the Court

- At the outset, the Petitioner relied on the judgments of Supreme Court in *Lalita Kumari v. State of Uttar Pradesh*[4] & *State of Telangana v. Habib Abdullah Jeelani*[5] for seeking directions for registration of a FIR against the Accused.
- The HC relied on the ratio laid down by the Supreme Court (**SC**) in *M. Subramaniam v. S. Janki*[6] & *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Ors*[7]. The Court also perused the scheme of the Code of Criminal Procedure, 1973 (**CrPC**) and observed that if a person is aggrieved by the fact that the police is not registering his FIR under Section 154 of the CrPC, then he can approach the Superintendent of Police under Section 154(3) of the CrPC by an application in writing. If this too does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, then it is open to the aggrieved person to file an application under Section 156(3) CrPC before the Magistrate concerned.
- The HC held that if such an application under Section 156(3) of the CrPC is filed before the Magistrate, the Magistrate can direct the FIR to be registered and can also direct a proper investigation to be made.
- The HC further observed that the High Courts are not made to entertain every grievance concerning non-registration of FIRs under the writ jurisdiction, as it needs to function properly and dispense justice in other instances where it is required. In light of these observations, the HC held that where a Complainant has an alternative remedy available, he must exhaust those remedies before approaching the High Court in its writ jurisdiction.
- Premised on the above discussion, the HC observed that the Petitioners in the present case have failed to make use of the alternative remedy available in the CrPC, and have directly approached the HC, and hence no relief could be granted to the Petitioner in terms of the directions sought by them in their Application. Consequently, the present Application was rejected.

HSA
Viewpoint

The HC's decision is justified as in presence of an alternative remedy, an aggrieved person should always utilize such remedies before approaching the Constitutional Courts under writ jurisdiction. Although it is noted that registration of an FIR in India is a particularly difficult task given the indifferent attitude of police authorities, however, the CrPC provides for a proper scheme to address the problem of non-registration of FIRs. If the said scheme is properly followed, it would not only help reduce the burden on the Courts, but it would also help the aggrieved person save time and money.

L.I.C. of India v. Mamta Sipani

Revision Petition No. 1033 of 2008

Background facts

- The dispute between nominee/widow of the deceased (**Respondent**) and L.I.C. of India (**Appellant**) relates to the repudiation of claim of death of the insured. The root of the matter was whether or not the insured knew that he was suffering from a fatal disease, and if he deliberately suppressed his medical condition when he took the insurance policy.
- The District Commission, with its majority view, held that the insured had no knowledge of his medical conditions before taking the policy, and it was only later that he came to know about it after thorough medical investigations were conducted in the hospital that he had been admitted to, where he later passed away during the course of the treatment.
- Consequently, the insurance company was ordered to pay the assured sum under the insurance policy with interest at the rate of 8% per annum from the date of filing of the complaint.
- Aggrieved by the same, the Appellant filed an Appeal before the State Commission, wherein the State Commission upheld the findings of the District Commission.
- The State Commission observed that the onus of proving the fact that the insured had prior knowledge that he was suffering from a fatal disease, and as such he deliberately suppressed these material facts at the time of filing up the proposal form for the Insurance policy was on the Appellant, and that the Appellant had failed in establishing the same.
- The Appellant, thereafter, filed the present Revision Petition before the National Consumer Disputes Redressal Commission (**NCDRC**) challenging the order of the State Commission.

Issue at hand?

- Whether the insured had sufficiently disclosed the material facts at the time of filing the insurance policy documents?

[4] (2014) 2 SCC 1
[5] (2017) 2 SCC 779
[6] (2020) SCC Online SC 341
[7] (2016) 6 SCC 277

Decision of the Commission

- The NCDRC perused the records of evidence as tendered before the District and the State Commissions.
- The National Commission observed that the records clearly reflect that the assured came to know about the fatal disease only after he had been admitted to the hospital for treatment, and there is nothing on record to prove that he had prior knowledge of the fatal disease at the time of filing the Policy. Consequently, it cannot be said that the assured deliberately omitted to file true and correct state of affairs in the policy documents.
- The Commission agreed with the learned counsel of the Petitioner and observed that suppression of material facts about pre-existing diseases/medical conditions would undoubtedly be a breach of the Insurance Contract, which is of utmost good faith.
- Subsequently, the Commission held that the said assertion is not tenable in light of the records of evidence in the present case and upheld the decision of the District Commission as confirmed by the State Commission.

HSA
Viewpoint

It has been rightly noted by the NCDRC that in an agreement of Life Insurance the policy holder is under a responsibility to disclose all material facts at the time of filing of the policy documents. The said observation by the NCDRC resonates with the previous rulings of the Supreme Court in – *United India Insurance Co Ltd v. M.K.J. Corporation*[i], *Life Insurance Corporation of India & Ors. v. Asha Goel & Anr*[ii], and *Reliance Life Insurance Ltd v. Rekhaben Nareshbhai Rathod*[iii].

[i] ((1996) 6 SCC 428)
[ii] ((2001) SCC 160)
[iii] ((2019) 6 SCC 175)

M/s Bharmal Indane Service v. Indian Oil Corporation Limited.

Revision Petition Under Arbitration Act No. 71 of 2020

Background facts

- The Petitioner was allotted a dealership for dealing in Liquefied Petroleum Gas (**LPG**) and a Dealership Agreement was entered into between the parties on July 25, 1983. During the year 2020, an inspection team had conducted the inspection and several irregularities were pointed out to the Petitioner by communication dated March 20, 2020. Petitioner is said to have replied to said irregularities.
- The petitioner contends that a letter was addressed to him imposing a penalty of INR 2,40,979 without issuing any show cause notice. Hence, a notice dated September 17, 2020 invoking arbitration was issued to the Respondent. On Respondent's failure to reply to the same, the present petition was filed seeking appointment of Arbitrator.

Issue at hand?

- Whether a petition referring the matter to arbitration can be disallowed on the ground that the dispute involves interpretation of policy guidelines?

Decision of the Court

- A plain reading of the Arbitration Clause signed between the parties would indicate that disputes arising out of said agreement would be resolved through alternate dispute redressal forum, namely Arbitration.
- It would be appropriate at this juncture to note the contention raised by the Respondent that there is no arbitrable dispute. As to whether there is an arbitrable dispute or not and whether the Arbitral Tribunal has got jurisdiction to decide the dispute is again an issue which can be decided by the Arbitrator himself/herself by ruling on the jurisdiction as contemplated under Section 16 of the Act. As such, without going into the merits of said case and rejecting the contention regarding interpretation of policy guidelines as sought to be canvassed, prayer for referring the matter to arbitration cannot be denied.
- The Court then examined the contention that the person named in the Arbitration Agreement alone should be nominated and said that it is a contention which cannot stand the test of law in the teeth of sub-Section (5) of Section 12 of the Act read with 7th Schedule namely, where officials or persons interested in the outcome of the dispute cannot be held as persons competent to arbitrate. In view of this, contention raised by the respondent was rejected.

HSA
Viewpoint

The Court basically upheld the autonomy of an Arbitral Tribunal to rule on its jurisdiction, which cannot be defeated on the ground that the dispute involves interpretation of policy guidelines. The High Court has reiterated the settled position that an Arbitrator will decide whether or not a dispute is arbitrable and whether the Tribunal has jurisdiction to pass an award as contemplated under Section 16 of the Arbitration and Conciliation Act 1996 (as amended).

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