

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.2660 OF 2017  
(ARISING OUT OF SLP(C) NO.32150 OF 2016)

MOHD. JOBER ALI

APPELLANT

VERSUS

UNION OF INDIA

RESPONDENT

O R D E R

Leave granted.

The learned Arbitrator passed an Award dated 8.11.2008, directing the respondent to pay a sum of Rs.22,33,380/- plus interest amount of Rs.10,94,356/- totalling Rs.33,27,736/-, along with a cost of Rs.1,50,000/-, to the appellant-claimant. He also awarded a further interest at the rate of 12% per annum on the total amount of Rs.34,77,376 from 08.02.2009 till the date of actual payment. Challenging the said arbitral award, the respondent approached the High Court by way of filing an appeal under section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act').

The High Court partly allowed the appeal with a modification in the arbitral award to the extent that the award of interest amount of Rs.10,94,356/- and

the award of 12% interest per annum on the total interest accrued and the costs are set aside. Being aggrieved by the same, the appellant has preferred the instant appeal by special leave.

We have heard learned counsel appearing for the parties and perused the record.

The High Court held that the award of interest at the rate of 12% per annum for the post award period was not permissible. This finding of the High Court is contrary to the judgment of this Court in the case of *Hyder Consulting (UK) Limited vs. Governor, State of Orissa* - (2015) 2 SCC 189, whereby this Court held as follows :

"12. It is settled law that where different language is used by Parliament, it is intended to have a different effect. In the Arbitration Act, the word "sum" has deliberately not been qualified by using the word "principal" before it. If it had been so used, there would have been no scope for the contention that the word "sum" may include "interest". In Section 31(7) of the Act, Parliament has deliberately used the word "sum" to refer to the aggregate of the amounts that may be directed to be paid by the Arbitral Tribunal and not merely the "principal" sum without interest.

13. Thus, it is apparent that vide clause (a) of sub-section (7) of section 31 of the Act, Parliament intended that an award for payment of money may be inclusive of interest, and the "sum" of the principal amount plus interest may be directed to be paid by the Arbitral Tribunal for the pre-award period. Thereupon, the Arbitral Tribunal may direct interest to be paid on such "sum" for the post-award period vide clause (b) of

sub-section (7) of section 31 of the Act, at which stage the amount would be the sum arrived at after the merging of interest with the principal; the two components having lost their separate identities."

In the result, we allow this appeal, set aside the impugned judgment and order passed by the High Court and restore the arbitral Award dated 08.11.2008, passed by the learned Arbitrator.

.....J  
[S. A. BOBDE]

.....J  
[L. NAGESWARA RAO]

New Delhi;  
FEBRUARY 10, 2017.

ITEM NO.8

COURT NO.9

SECTION XIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).32150/2016

(Arising out of impugned final judgment and order dated 16/07/2016 in ARBA No.2/2012 passed by the High Court Of Orissa At Cuttack)

MOHD. JOBER ALI

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(With interim relief and office report)

Date : 10/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Anirudh Sanganeria, Adv.

For Respondent(s) Mr. S.R. Rao, Adv.  
Mr. Subhas C. Acharya, Adv.  
Mr. Rohit Rao N., Adv.  
Ms. Devahuti Tamuli, Adv.  
For Mr. Mukesh Kumar Maroria, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Sanjay Kumar-II)  
Court Master

(Indu Pokhriyal)  
Court Master

(Signed Order is placed on the file)