

Union of India

Vs

M/S. Jolly Steel Industries (P) Ltd. and Others

Civil Appeals Nos. 1624 and 1624-A of 1979

(V. R. Krishna, Iyer, A. P. Sen JJ)

08.05.1980

JUDGMENT

KRISHNA IYER, J. –

1. We are pronouncing a short judgment disposing of both the appeals. They stem from an award in a dispute between a contractor and the Railway Department of the Union of India. Steel scrap was to have been supplied as per the contract to the respondent. But disputes having arisen between the parties a reference was made to arbitration. An award followed. But it became the subject-matter of a challenge. These two appeals have spiraled up to this Court. We are not narrating the facts in further detail which would have been necessary had we the need to investigate the issues and pronounce thereon. But we have narrowed down the scope of the controversy and although the award upholds the respondents' right to receive the entire quantity of scrap we have persuaded the counsel on both sides and their parties through them to adopt a middle course. We must state that the advocates have been helpful in bringing to an end a litigation which otherwise could have had a protracted course. A minimal dispute, which survived, has been left to us for decision and we decide that also in this short judgment.

2. We direct that half the quantity of scrap covered by the contract for supply shall be supplied at the place appointed in the contract within three months from today by the Railway Department. Counsel for the Union of India raised only a minor objection that some quantities of steel scrap were lying in different places and the respondent must be asked to bear the cost of transportation. We think it unjust to make the respondent liable for such expense and direct the Railway Department to make available half the total quantity stipulated under the contract at the place fixed in the contract at the expense of the Union of India.

3. The only surviving issue turns on payment of interest claimed by the respondent. We are not satisfied that the circumstances of the case or the statutory provisions in this behalf justify award of interest to the respondents. We negative that claim.

4. The other question is regarding the price which must be the basis for fixing the damages for non-delivery of half the quantity of scrap covered by the contract. We fix the damages on the basis of the price ruling as at the date on which delivery ought to have been made according to the contract. This price will have to be fixed by the executing court after giving opportunities for the parties to lead evidence. The time for delivery of the half quantity as directed above is three months.

5. We dispose of the appeals as above pursuant to an earlier order of this Court at the time of the granting of leave. We direct that the appellant will pay cost of the respondents.

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