

State of Orissa

Versus

B. K. Routray

Civil Appeal No. 2943 of 1985

(Sujata V. Manohar, R. C. Lahoti JJ)

12.01.1999

JUDGMENT

Sujata V. Manohar J.

1. The only question which has been raised in this appeal pertains to the award of interest by the Arbitrator for the pre-reference period. The pre-reference period, in the present case, is from 31.3.1997 to 20.3.1980. This entire period is prior to coming into force of the Interest Act, 1978. The interest Act, pendency of the reference and the award is made on 12.10.1982 when the Interest Act, 1978 was in force.

2. The short question is whether the Arbitrator in 1982, could have awarded interest for the pre-reference period in view of the provisions of the Interest Act, 1978, although the entire pre-reference period is prior to the coming into force of the Interest Act, 1978.

3. In this connection, our attention has been drawn to the decision of this Court in *State of Orissa v. B.N. Agarwalla*, reported in 1997(2) SCC 469. In paragraph 18, this Court has held that interest cannot be given for the period prior to the coming into force of the Interest Act, 1978. This Court has also held that the decision in the case of *Executive Engineer (Irrigation) v. Abhaduta Jena* reported in 1988(1) SCC 418 has not been over-ruled in so far as it deals with interest for the pre-reference period. This Court has upheld the view taken in Abhaduta Jena's case to the effect that in respect of pre-reference period, interest cannot be awarded in respect of the period not covered by the Interest Act, 1978. Our attention was also drawn to a decision in the case of *State or Orissa v. Niranjana Swain* reported in 1989(4) SCC 269 where also this Court said that where reference to arbitration was made prior to the commencement of the Interest Act, 1978, Arbitrator is not empowered to grant interest for the period upto the date of submission of claim to arbitration.

4. In this connection, we would also like to refer to Section 6(2) of the Interest Act, 1978 which provides as follows :

Section 6(1)

Section 6(2) : The provisions of this Act shall not apply to any suit or other legal proceedings pending at the commencement of this Act and the provisions of the corresponding law applicable immediately before such commencement shall, notwithstanding the repeal of such law by sub-section (1), continue to apply to such suit or other legal proceeding."

5. This section also clearly provides that the provisions of the Interest Act, 1978 shall not apply to any legal proceeding pending at the commencement of the said Act. Since the definition of "Court" under Section 2(a) includes a Tribunal or Arbitrator, the proceedings before the Arbitrator would also be covered by the expression "legal proceedings" in Section 6(2). Therefore interest Act, 1978 does not apply to pending arbitration proceedings.

6. In the premises, the present appeal is allowed and the award of interest for the pre-reference period, namely, 31.3.1977 to 20.3.1980 is disallowed. The award and the decree are modified accordingly to this effect.