



According to section – 2(b) of the Arbitration Act, “An Award is the final judgement or decision in writing by an arbitrator or arbitrators or umpire on all matters referred to arbitration as between the parties and all those who claim through them.”

Essentials of valid award

An award in order to be valid must have certain essentials; otherwise an award can be modified or set aside by the court. An award must have following essentials: -

- ◆ An award must be in writing.
- ◆ All the arbitrators or umpire should sign the award, preferably in the presence of each other and should date it before delivering it.
- ◆ An award must be full and final.
- ◆ An award must be within the scope of the arbitration agreement.
- ◆ An award must be legal. If it is illegal, it will be void and unenforceable.
- ◆ An award must be certain. It should not be vague and uncertain.

Filing of award in the court

An award becomes effective and enforceable when it is filed in the court. Section – 14(2) imposes a duty upon the arbitrators or umpire to file the award or a signed copy of it together with all statements and documents which may have been taken or proved before them. The same shall be done only if: -

- (a) A request is made by any party to the arbitration agreement.
- (b) An order given by the court.

The fees and charges due in respect of the arbitration and award and the cost and charges of filing of the award have been paid to the arbitrators or umpires. Upon

the filling of the award, the court shall give notice to the parties of the filling the same.

The issue of the notice of filling the award is mandatory and where no such notice is issued a decree is passed upon the arbitrator or umpire have stated a special case and the parties and hearing them has pronounced its opinion thereon, such opinion is to form part of award. [Section – 14(3)]

Powers of the court safeguarding the award

According to the provision of the Act, the court has following powers regarding an award: -

1) To modify the Award

According to section – 15, the court has the power to modify and correct the award in the following cases:-

- Where the award is on a matter not referred to arbitration and the same can be separated from the rest of the award without affecting the award.
- Where the award is imperfect in form or contains any obvious error and it can be modified or rectified without affecting such decision.
- Where the award contains a clerical error.

2) To remit the award for reconsideration

According to section – 16, the court may remit the award for reconsideration to the same umpires or arbitrators in the following cases: -

- Where the award has left undetermined any of the matters referred to as arbitration.
- Where it determines any matter not referred to arbitration and such matter cannot be separated without affecting the determination of the matter referred.
- Where the award is so indefinite as to be incapable of execution.
- Where an object to the legality of the award is apparent upon the face of it.
- Where the arbitrator or umpire has misconduct.

- Where an arbitrator has accepted his mistake and wants it for reconsideration.

The award is remitted for such time within which the arbitrator or umpire shall file a fresh award. The court may extend such time.

3) Judgement in terms of award

According to section – 17, the pronouncement of judgement to the award, if the following conditions are satisfied: -

- The award must have been filed in the court.
- The court must have given notice to the parties of the filing award.
- The time for making an application to set aside the award must have expired or if such application has been made, it must have been refused.
- The court must see no cause to remit or set aside the award.

4) Setting aside the Award

Section – 40 provides that the court can set aside an award only in the following cases: -

- ❖ Where an arbitrator or umpire has misconduct himself or the proceedings.
- ❖ Where the award has been made after the issue of an order by the court superseding the arbitration or after arbitration proceedings have become invalid u/s 35.
- ❖ Where the award has been improperly procured or is otherwise invalid.

CASE – 1

Arbitration with Intervention of Court where there is no suit pending

According to the provision of section – 20, where there is an arbitration agreement, but no suit is pending, any of the parties may apply to the court for filling the arbitration agreement. The application shall be in writing. The application when filed will be numbered and registered as a suit with the applicants as plaintiffs and other as defendants. Thereupon the court gives notice to the other party requiring them to show cause why the agreement should not be filed. If the sufficient cause is not shown, the court shall order the agreement to be filed. It shall make an order of reference to the arbitrators appointed by the

parties. If the parties cannot agree upon an arbitrator, the court may appoint an arbitrator and make an order of reference to the arbitrators, so appointed.

Therefore, the arbitration proceeds as if it is an arbitration without the intervention of court.

CASE – 2

Arbitration in Suits

Section – 21 to 25 cover all references to arbitration in pending suits. These deal with the disputes which are already pending before the court. Parties may agree in the beginning to refer disputes present or future to arbitration.

Following are the rules in this regard: -

- ✓ Wherein any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may apply in writing to the court.
- ✓ The arbitrator shall be appointed in such a manner as may be agreed upon between the parties.
- ✓ The court shall by order refer to arbitrator the matter in difference which is required to be determined by him. It shall also specify the time within which the award is to be made.
- ✓ Where only some of the parties to a suit may apply to have matters in difference between them referred to arbitration, the court may refer such matter to arbitration.

After an order of reference is made, the arbitration takes place in the same manner as if it is an arbitration without the intervention of court.