



1) Arbitration mean's

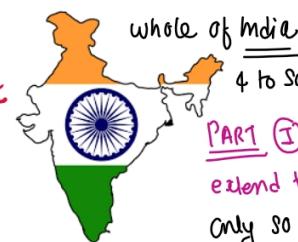


ARBITRATION

→ 16 Aug 1996

Applicable

- PART I** Arbitration (2-43)
(II) Enforcement of foreign Arbitral Award (44-60)
(III) Conciliation
(IV) Supplementary provisions.



whole of India
to some extent J&K.
PART I (II) (IV) Shall extend to state of J&K, only so far regard
(I) → Internat'l Comm. Arbitral conciliation.
(II) → " "

This law here upon UNCITRAL

an model Law on International commercial Arbitration

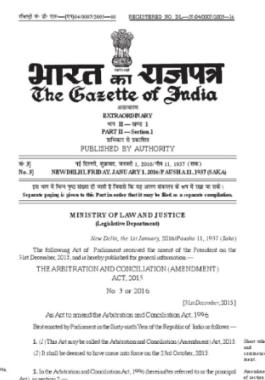
ACA, 1996 was passed



- Interpretation by COURT
PROV. OF ACT.
 ① Delay PROCEEDING (+)
 ② COST (+)
 ③ COURT INTERFERENCE IN ARBITRATION matter

Defeat Purpose of the Act. → OVERCOME.

↓
Arbitration
Conciliation
(Amendment) Act, 2015
passed by parliament
Facilitate & encourage ADR.



1) Arbitration



mean's any arbitration whether or not administered by permanent Arbitral Institution.



YouTube

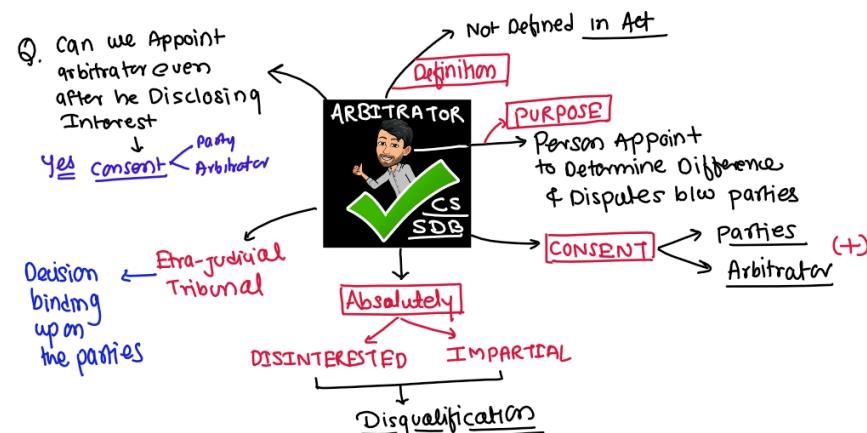
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Knowledge HUB
by Satish Baheti

for more notes
WhatsApp me

CS Satish D. Baheti



- ① In writing.
 - ② Ref. to Arbitration & Award req. to be made in writing.
 - ③ On stamp paper of per. value & in writing
 - ④ Oral decision not award.
- Base on place of making award.

ARBITRAL AWARD



- at includes Interim Award
- ⑤ Signed by majority of the members of tribunal. State Reason's of omitted signature.
 - ⑥ Dated
 - ⑦ Place of Arbitration
 - ⑧ Recording Reason's → 2 Exception
 - where Arb. Agreement expressly provide no reason is required.
 - Award made u/s 30 i.e. parties settle Dispute & AT has recorded statement.

⑨ Compensation & interest.



- ⑩ Signed copy → Deliver to each party.

ARBITRATION AWARD

→ formulation of Reason's Imp why ☺

at Δ initial view about matter.
at involved analysis of Dispute to reach at logical conclusion.

4 PART

- General findings of fact → Preamble of Award i.e. reference to Arb. Agreement, Constitution of tribunal, procedure adopted by Tribunal.
- Submissions of the parties.
- Conclusion of Tribunal.



Means a sole Arbitrator OR
panel of Arbitrator.

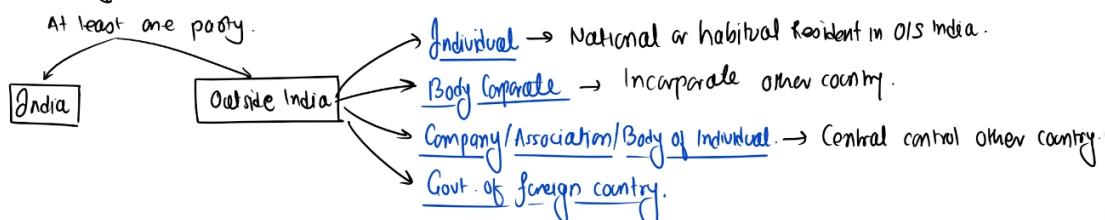


International Commercial Arbitration



→ means arbitration relating to dispute
arose
↓
out of legal Relation
↓
whether contractual or not
↓

As commercial under law in force in India.



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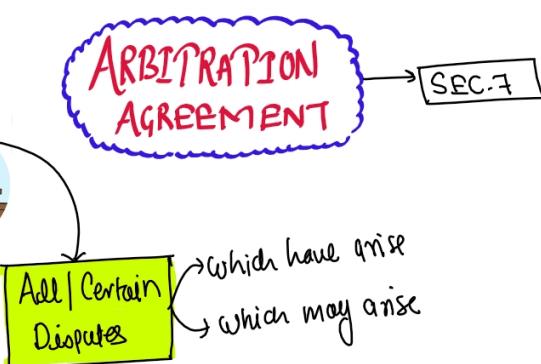
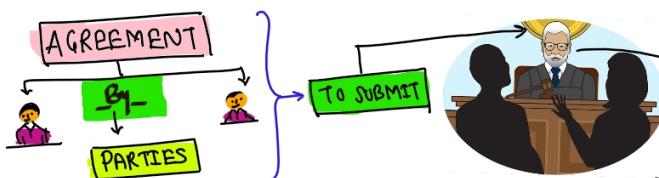
For more notes

Legal Representative

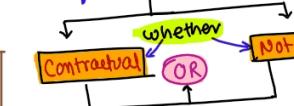


Represents estate of a Deceased person
 Person intermediates with estate of decease member.
 person on whom estate of decease party devolves (i.e. passes by operation of Law)
 on the death of party acting in the representative capacity.

- e.g. ① Administrator / Executor
 ② person - who takes Duties & Responsibility → belong to Administrator / executor
 ③ Hairs-at-Law
 ④ universal legatee (who received legacy)



In Respect of Defined Legal Relationship,



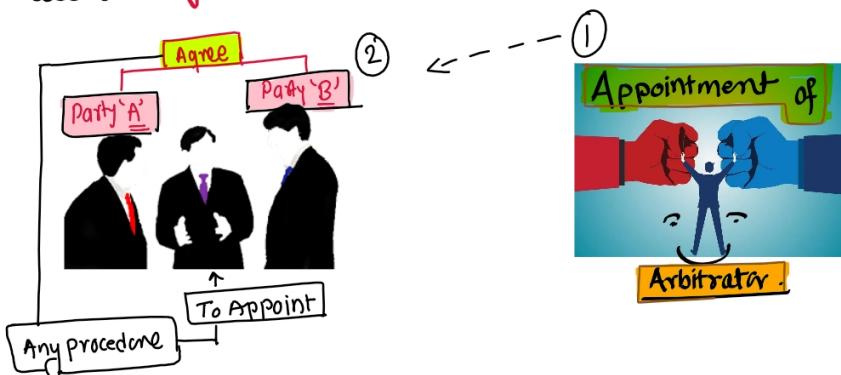
- 1) Must be in writing & includes exchange of letter, telex, telegrams, other means of communication which provide record of such Arbitration Agreement
- 2) Statutory essential of Valid contract. → consensus ad idem
- 3) May in form of an



- Arbitration Agreement stand on same footing as other Agreement
 → at Binding upon parties
 → at least in writing
 → oral Agreement Not Recog. As. Arbitration Agreement



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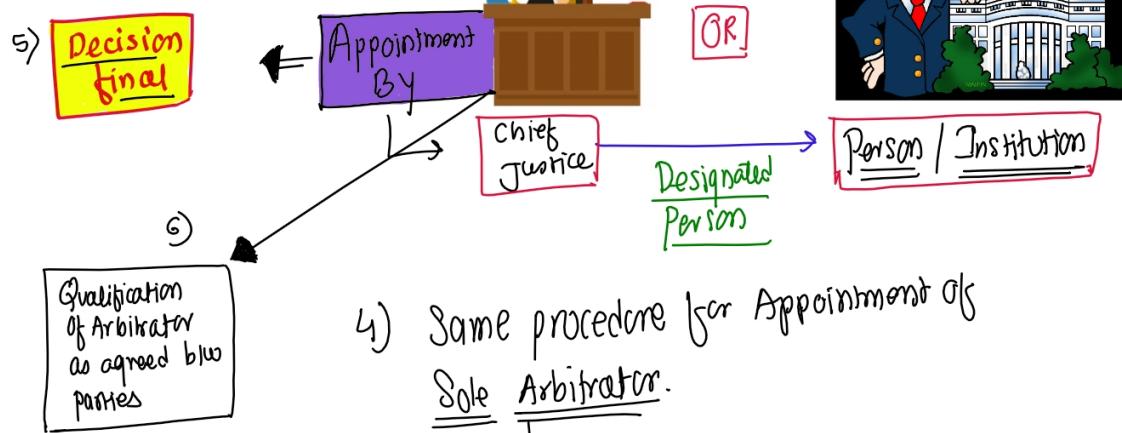
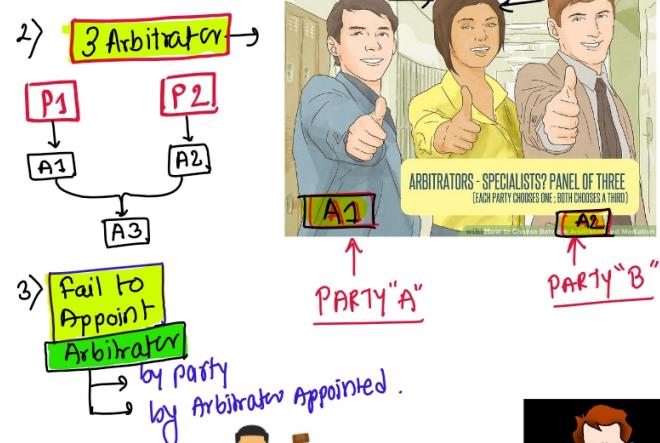
SEC. 11 ③ But prov. made to ensure timely appointment.

following procedure,



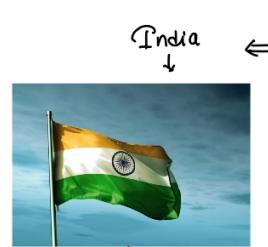
Summary

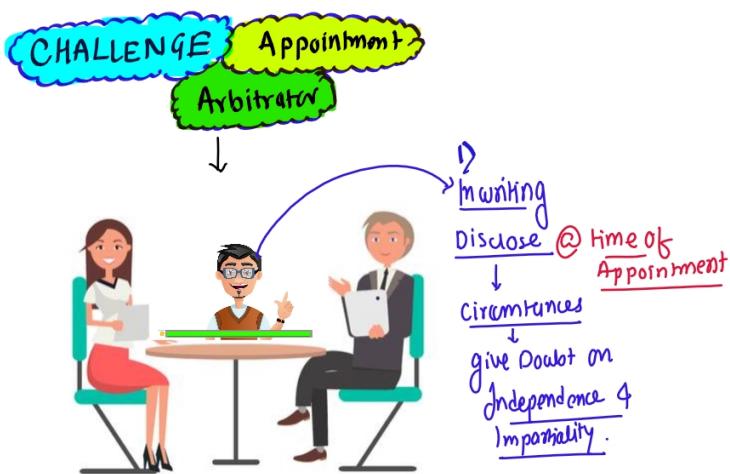
- * Party free to decide procedure
- * purpose of prov. [vis 11]
- * Arbitrator → ANY NATIONALITY
- 2) 3 Arbitrators
- 3) Fail to Appoint → procedure
- 4) same procedure → Fail to Appoint Sole Arbitrator.
- 5) Decision of Appoint Final.
- 6) Qualification Arbitrator.
- 7) International commercial Arbitration.



4) Same procedure for Appointment of Sole Arbitrator.

7) Appointment of sole OR 3rd
In International Commercial Agreement
↓
Person "Arbitrator" Other than nationality of Parties of Dispute.





e.g. BLOOD Relationship.
Pecuniary Relationship

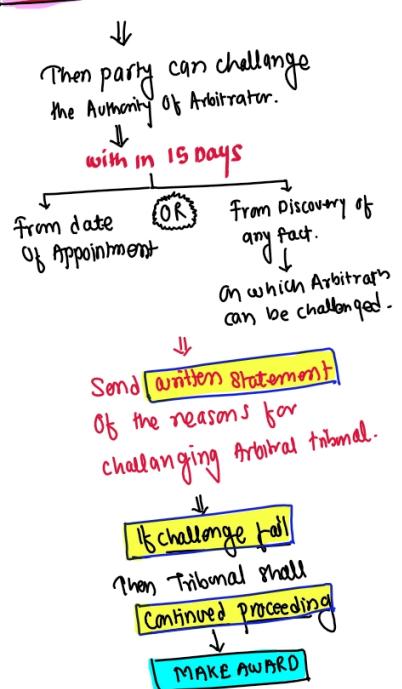
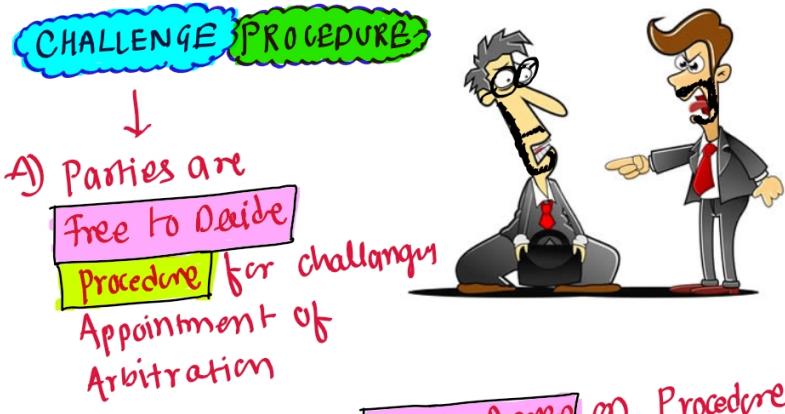
2) After Appointment → throughout Arbitral proceeding also give Discloser to party without any delay.
In writing
any circumstance stated above.

3) Appointment may be challenge only if:

- Independence is doubtful.
 - Not posses required Qualification
 - Not Able to Arbitrate Impartially (fairly)
- PARTY can challenge Appointment
- App. by other party
App. by itself.

Party may challenge Appointment of Arbitrator by HIM

ONLY
Only those ground which come to his knowledge after his Appointment.



Note: party who challenge Appoint. of Arbitrator
may challenge AWARD
Make Application for Setting Aside Award
U/S 34 of Act

Summary challenge Appoint → procedure

- ① Before Appoint → writing
 - ② throughout proceeding → writing
 - ③ Ground of challenge
 - ④ Own Arbitrator / Appoint by other own Arb. → after Appoint.
- ① Party free to Decide
 - ② If fail to Decide → 15 days
 - ③ U/S → stating Reasons
 - ④ Agreed party Application Setting Aside Award - U/S 34

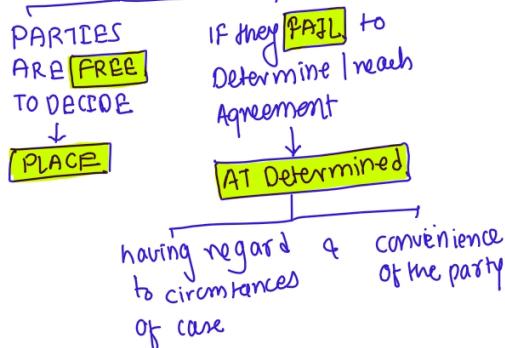


ARBITRAL PROCEEDING

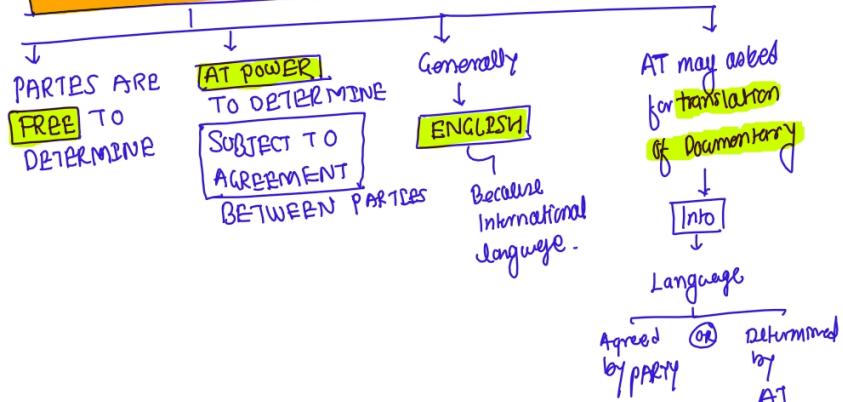


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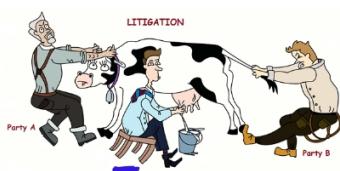
PLACE & COMMUNICATION OF ARBITRATION



2) LANGUAGE OF ARBITRATION



ARBITRATION PROCEDURE



1) Dispute
within period Agreed between parties

Claimant Respondent
• FACT
• ISSUE
• Remedy/Reliefs
AT
WIS Statement of Defence.
Statement
Documents
other Evidence

2) submission by parties

- 3) party can Amend / supplement their claim / defence.
- unless
- not prohibited in Agreement by parties
 - AT think it inappropriate - to allow amendment & supplement.

4) two Responsibility of AT

- (1) Treat party equally
(2) OBI to both the parties.
- ① + ② is fundamental principles of equality & full opportunity to present the case.

NULL & VOID

Any Agreed procedure which violates the basic procedure

Award passed can be set aside

5) Hearing & written proceedings

NO Restriction about whether proceeding ORAL HEARING presentation of Evidence.

ORAL ARGUMENT

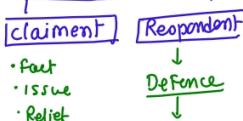
conducting proceeding on the basis of documents.

unless parties agreed that No oral hearing shall be held

6) parties shall give sufficient Advance Notice

of any hearing & of any meeting of AT for inspection of documents Goods Other property.

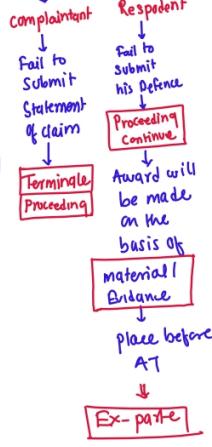
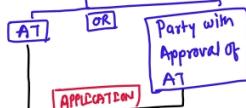
Received → AT → shall communicate → Other party

① SEC 23**Statement of claim & Defence**

Within period Agree between parties

② SEC. 24**Hearing & writing proceeding**

In the Absence of any such Agreement
Decision may taken by AT.

③ SEC. 25**Default of Party**④ SEC. 26**Appointment of Expert**⑤ SEC. 27**Party or AT may move to COURT for assistance**

can apply court for Assistance of taking evidence.
Court may order evidence to be provided directly to the Tribunal.
Person fail to attend as required or refuse to give evidence
CONTEMPT OF COURT

⑥ Decision**CONSENSUS of Tribunal member.**

Decision generally by majority member.



SEC. 15

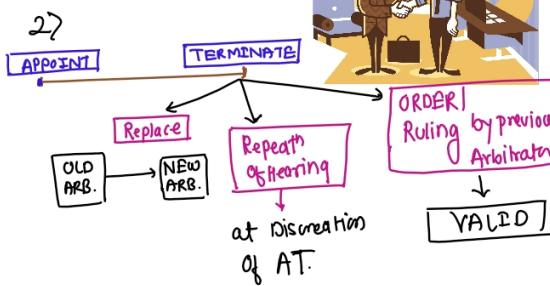
Substitution of Arbitrator.

1) In Addition to SEC. 14

Arbitrator 'mandate'

Terminated it

where he withdraw from office for any reason's
By / pursuant Of Agreement between the parties.



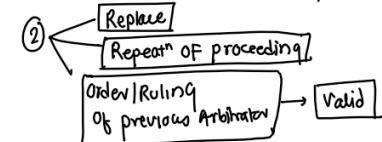
Summary SEC. 14 Permutation
SEC. 15 Substitution.

Termination

- ① De jure, De facto → unable to perform duties.
- ② Resignation → own or terminate by party.
- ③ Arbitrator incapable to perform → COURT Intervention.
- ④ Continuance become impossible.
- ⑤ Substitution

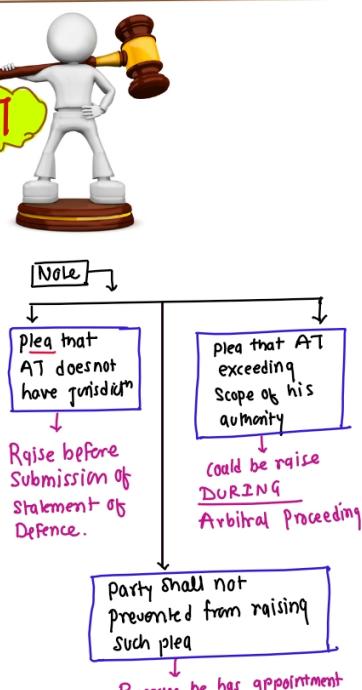
Case → Demotion from position not amount to Disqualification/ Termination of Arbitration.

SUBSTITUTION
Additional two ground
withdraw for any other reason
Agreement b/w parties.



① AT empowers to make own Rules for jurisdiction
② may treat Arbitration Clause as a separate Arbitration Agreement

③ It whole contract is NULL & VOID
Still Arbitration Clause is VALID



Summary Jurisdiction of AT

- ① AT empowers - own Rules
- ② Treat A. Clause → A. Agreement.
- ③ Whole A. Agreement → Null & void.
- ④ Before Statement of Defence.
- ⑤ Not prevent party → who AT appointed him.
- ⑥ AT → exceed scope of his authority → plea during proceeding

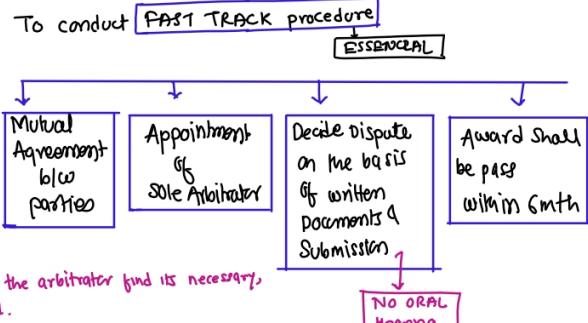
(SEC. 29A) Time Limit for Arbitral Award

- ① AT → ensure speedy completion of Arbitration proceedings & pass Award within 12 mth. when AT enter upon the reference.
AT deemed to be "enter upon the reference".
Date on which AT receives notice of his appointment.
- ② (A) → (B) → parties may extend such period further upto 6mth provided additional fees paid to AT
- ③ If Award is not passed within time (12mth) or extended time (6mth)
Then Mandate of AT shall be terminated unless court grant extension in time limit.
- ④ If Delay in order → Because of AT, court may order reduction of fees upto 5% for each mth. of delay.
- ⑤ An Application → for extension in time limit → COURT
Disposed within 60 days

Summary

- ① 12 mth. from date of ref.
- ② 6 mth further extend
- ③ (12+6) If No Award
↓
Terminate mandate
- ④ Delay b/c of AT
Reduction in fees upto 5% each mth.
- ⑤ App. for grant → COURT
disposed.

(SEC. 29B) FAST TRACK PROCEEDING



1) If parties request or the arbitrator finds it necessary, oral hearing may be held.

2) If Award not passed within 6mth

Party by mutual Consent extend period further upto 6mth.

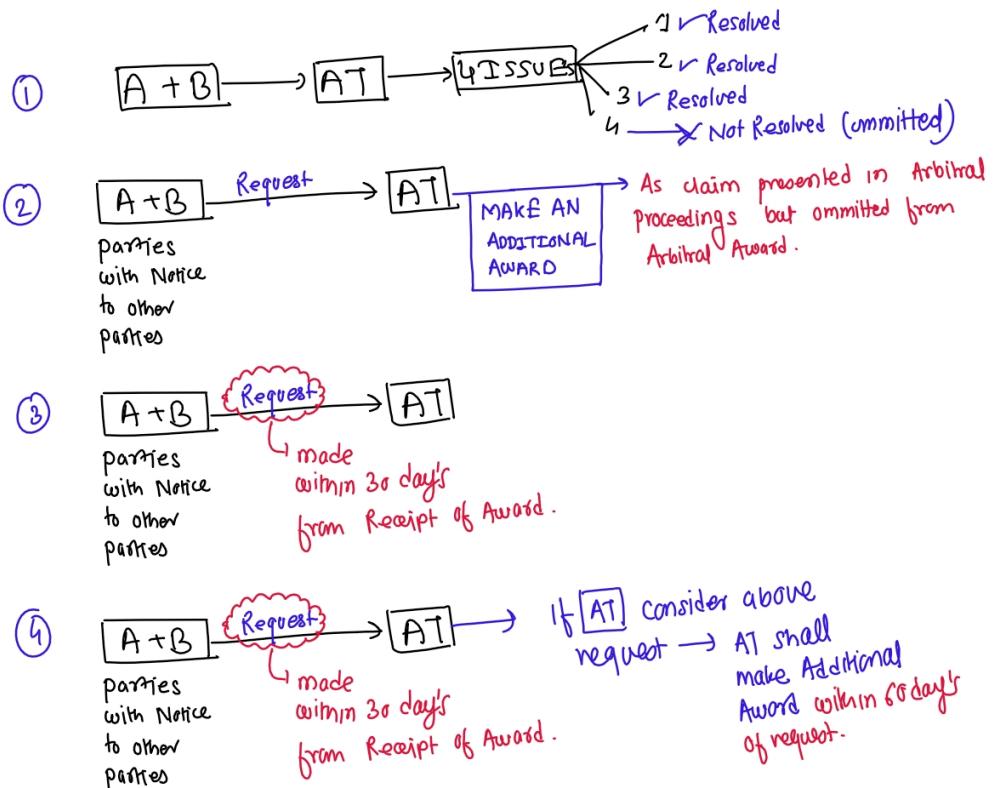
If Award not pass in specified time [6mth] or extended period (12 mth) - (6+6)
↓
COURT
Terminate mandate.
OR
grant extension if sufficient cause.



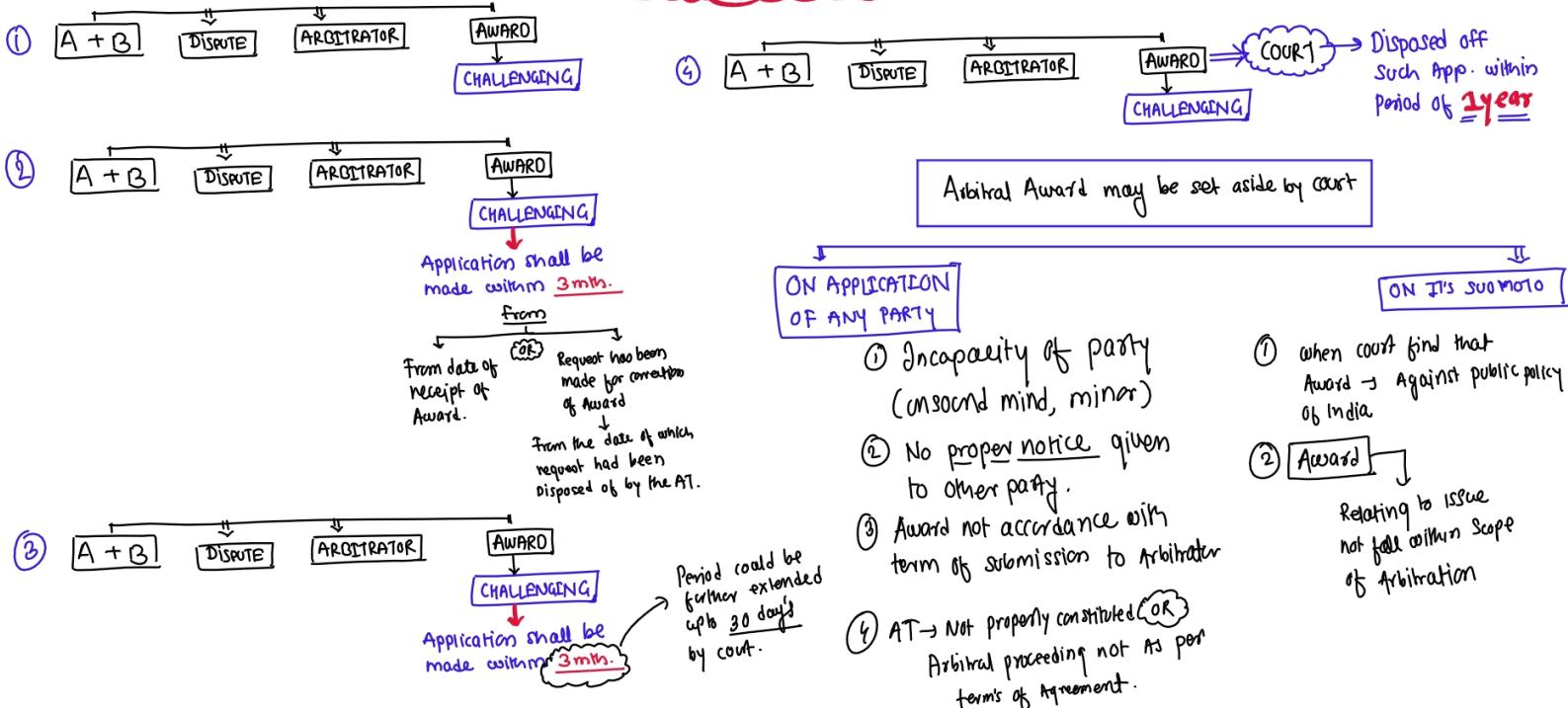
Correction & Interpretation of AWARD

- 1) Award may be corrected by AT within 30 days.
- 2) party with Notice to other party → Request to AT
 -> correction computation errors
 -> any clerical error
 -> typographical errors,
 -> other similar nature error.
- 3) Request
 -> Interpretation
 -> occurring in Award.
- 4) AT shall Rectify or provide interpretation within 30 days from receipt of request.

ADDITIONAL AWARD



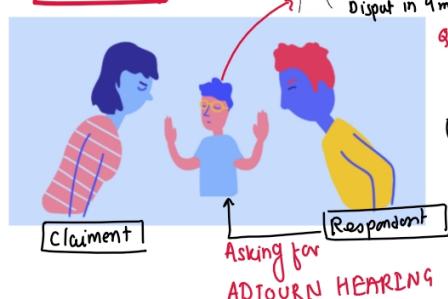
Setting Aside Award





CASE STUDY

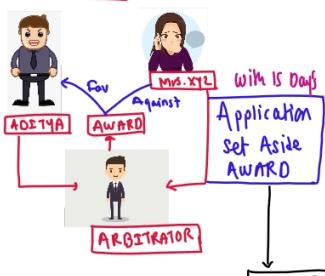
CS - I



Q. what will
be the effect
of such Refusal.
(DEC. 1991)

→ Arbitrator can't
Refuse to Adjourn
Hearing ----
on ground ---- 4mn
This Against principle
of Natural justice.

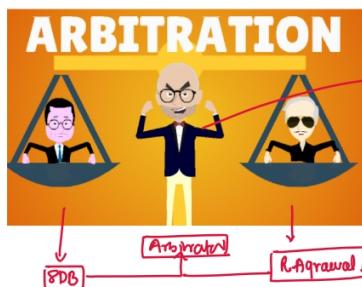
CS - II



* Proper notice of
Arbitral proceeding yr
Not given

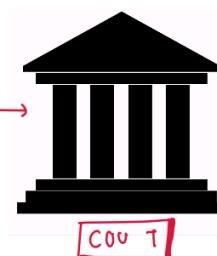
- Q. Wheather Mrs. XYZ
Succeed in his prayer → Valid ground
- Q. Wheather Law
of limitation will
not able to bar
his case → within 3 mn
from date
of Receipt of
Award.
- DEC. 2006 DEC. 2010

Appeal



From order of AT
ORDER

- ↓ Granting OR Refusing to GRANT INTERIM MEASURES
- ↓ Setting side or Refusing to SET ASIDE an Award.
- ↓ Granting or Refusing to grant any measures.



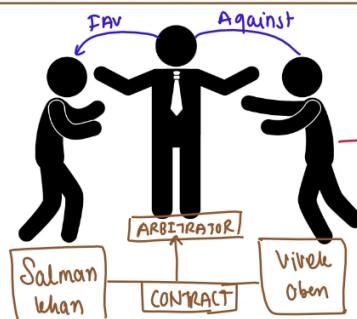
2nd Appeal

NOT Allow



Finality Of Award

at final
binding upon the
parties & persons
claiming under it



Award is
not binding
up on him
Because condition
to this effect
not incorporated
in Arbitration
Agreement.

Q. will Viket
Succeed? → No

(June - 1992)



→ Arbitrator lien on Arbitral Award
& Deposit as cost.



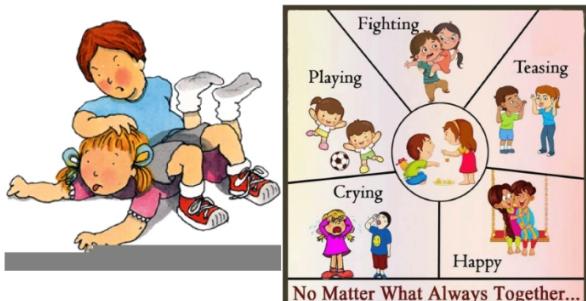
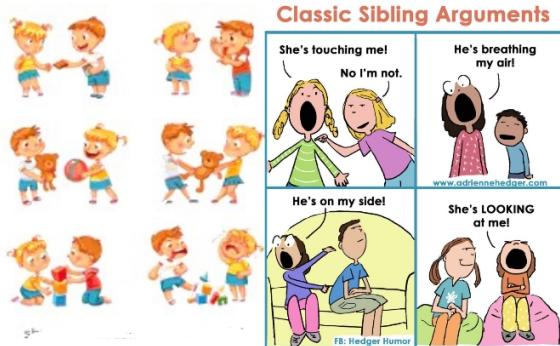
FOR ANY UNPAID COST OF ARBITRATOR

Refuse to Deliver Award
If parties fail to pay fees
or charges.

In such case parties can
Apply to COURT

AT
offer
Inquiry.

Court will ask to
Deposit sum demanded
by AT.



Brother - Sister <3

[Arbitration & conciliation Act, 1996] → given formal Recog. to conciliatn in India

No. of conciliator → shall be one unless parties Agree.

→ Max. 3!

→ it may be ↗ ODD → 2, 3
EVEN → 2

Appointment of conciliator

Q → by both party.

QR → each by one party

RRR → two conciliator by each party then two conciliator appoint 3rd conciliator.

Disclosure of Information

Conciliator will disclose information given by one party to another, unless required to be confidential.

Settlement Agreement

If Reached b/w the parties

(1) If conciliator feel that possibility of Settlement b/w parties → He shall formulate terms of Agreement & inform to parties.

(2) Parties may Accept & signed Agreement

Settlement Agreement shall be final → once signed.

at signed by both parties → same is given to each party.

CONCILIATION

Setting A Dispute without litigation

IN FORMAL PROCESS
AMICABLE SETTLEMENT
"WIN-WIN" situation

PARTY 'A' =
PARTY 'B'

Both the parties Agree to discuss among themselves & arrive at mutually Agreed compromise

with the Help of



CONCILIATOR

ROLE

Assist parties IN INDEPENDENT & IMPARTIAL MANNER.

RICH AT AMICABLE SETTLEMENT OF DISPUTES.

UNDERSTAND Right & Obligation of parties. & the circumstances surrounding the disputes.

Conduct proceeding in such manner as he consider Appropriate. ↓ after considering request of the parties.

Settlement of dispute



May invite parties to Him.

May communicate orally or in writing

Can meet the parties together or separately

Parties not Agreed regarding place of meeting. Conciliator determine such place after consultation with parties

Guided by principles of objectivity, fairness, justice