Supreme Court Judgment Regarding Modification of Arbitral Awards

Prelims (GS I) – *Indian Polity and Governance.*

Mains (GS II) – *Structure, organization and functioning of the Executive and the Judiciary.*

Why in news?

Recently, five-judge Constitution Bench of the Supreme Court headed by Chief Justice Sanjiv Khanna *ruled* (4:1) *that courts have limited power to modify arbitral awards.*

Majority Opinion (4:1)

- The majority opinion held that *courts are judicially empowered under Section 34 of the Arbitration and Conciliation Act, 1996 to alter arbitral awards on restricted grounds.*
- The Supreme Court affirmed it can use its inherent powers under Article 142 to do complete justice in arbitration cases with great care and caution and not in derogation or suppression of the Arbitration Act's objectives.
- Modifications that are allowed under Section 34 are,
    - ***Power to set aside*** invalid portions of an award from valid parts.
    - To correct obvious typographical, computational or clerical errors.
    - To change interest calculations post-award.

Arbitration and Conciliation Act, 1996

• The Arbitration and Conciliation Act, 1996 governs arbitration and conciliation, provides a framework for resolving disputes through *alternative dispute resolution (ADR) mechanisms*.
• It was enacted to modernize India's arbitration framework based on the UNCITRAL Model Law.
The United Nations Commission on International Trade Law (UNCITRAL) established by the in 1966 is a subsidiary body of the U.N. General Assembly (UNGA) responsible for helping to facilitate international trade and investment.
• It covers both domestic and international commercial arbitration, as well as the enforcement of foreign arbitral awards.
• The Act aims to make arbitration a fair, efficient, and capable procedure, while also minimizing the role of courts in resolving disputes.
• It ensures that arbitral awards are enforced in the same manner as court decrees.
• **Section 34 Provisions** – Section 34 of the act allows a party to seek setting aside of an arbitral award if,
- It is against public policy
- It is contrary to the fundamental policy of Indian law
- It was induced by fraud or corruption
- It conflicts with basic notions of morality and justice

Minority Opinion

- Justice K V Viswanathan who has dissented the majority opinion held that *arbitral awards cannot be modified* unless expressly permitted by the arbitration statute.
- His view was that courts ***do not have the power to modify*** an arbitral award under Section 34.
- This opinion aligned with the Centre's position who was represented by Solicitor General Tushar Mehta.
- He also said that ***power to modify*** is not a lesser power than the ***power to set aside*** as the two operate in separate spheres.

Reference

The Hindu| SC upholds courts' power to modify arbitral awards

