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**CASE ANALYSIS ON: MUMBAI KAMGAR**  
**SABHA, BOMBAY V. M/S ABDULBHAI**  
**FAIZULLABHAI & ORS. (1976)**

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**TABLE OF INDEX**

| <b>S. No.</b> | <b>Contents</b>                        |
|---------------|----------------------------------------|
| 1.            | List of Cases                          |
| 2.            | List of Abbreviations                  |
| 3.            | Preface                                |
| 4.            | Summary of Facts                       |
| 5.            | Issues                                 |
| 6.            | Arguments                              |
| 7.            | Judgment                               |
| 8.            | Relevance of Judgment in Present Times |
| 9.            | Analysis & Conclusion                  |
| 10.           | Bibliography                           |

**LIST OF CASES**

| <b>S. No.</b> | <b>Case Law</b>                                                   | <b>Citation</b>                                                                                                   |
|---------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| 1.            | Dhabolkar                                                         | [1976] 1 S.C.R. 306                                                                                               |
| 2.            | Nawabganj Sugar Mills                                             | [1976] 1 S.C.C. 120                                                                                               |
| 3.            | Messrs. Ispahani Ltd. v. Ispahani Employees' Union                | [1960] 1 S.C.R. 24                                                                                                |
| 4.            | Bombay Co.                                                        | [1964] 7 S.C.R. 477                                                                                               |
| 5.            | Jardine Henderson                                                 | [1962] Supp. 3S S.C.R. 382                                                                                        |
| 6.            | Howrah-Amta Light Rly.                                            | [1966] II LLJ 294, 302                                                                                            |
| 7.            | Tulsidas Khimji                                                   | [1962] I LLJ 435                                                                                                  |
| 8.            | Churakulam Tea Estate                                             | [1969] 1 SCR 931                                                                                                  |
| 9.            | Ghewar Chand                                                      | [1969] 1 S.C.R. 366                                                                                               |
| 10.           | Pandurang                                                         | [1975] II LLJ 345                                                                                                 |
| 11.           | Satyadhan Ghosal v. Deorajin Debi                                 | AIR 1960 SC 941: (1960) 3 SCR 590                                                                                 |
| 12.           | Talluri Venkata Seshayya v. Thadvikonda Kotiswara Rao             | 1937 BOMLR 317                                                                                                    |
| 13.           | Rural Litigation And Entitlement Kendra v. State of Uttar Pradesh | 1985 AIR 652, 1985 SCR (3) 169, AIR 1985 SUPREME COURT 652, 1985 UJ (SC) 594, (1985) 2 CURCC 70, 1985 (2) SCC 431 |

## LIST OF ABBREVIATIONS

| Abbreviation | Meaning                      |
|--------------|------------------------------|
| S.C.R.       | Supreme Court Reports        |
| I.L.R.       | Indian Law Reports           |
| A.I.R.       | All India Reporter           |
| LLJ          | Labour Law Journal           |
| S.C.C.       | Supreme Court Cases          |
| I.S.C.R.     | Indian Supreme Court Reports |
| I.L.J.       | Indian Labour Journal        |

## PREFACE

The case of *Mumbai Kamgar Sabha, Bombay v. Abdulbhai Faizullabhai & Ors.*, decided by the Supreme Court of India on March 10, 1976, stands as a pivotal moment in the landscape of labor law in India. This assignment aims to provide a detailed analysis of the judgment, focusing on its implications for workers' rights and the interpretation of the Payment of Bonus Act, 1965.

The backdrop of this case involves a significant number of workers employed in small businesses in Bombay who sought to claim bonuses that had been traditionally paid prior to the enactment of the Bonus Act. The abrupt cessation of these payments led to a dispute that brought forth critical questions regarding the nature of bonuses and the rights of workers to claim them based on custom and usage rather than profit.

In this judgment, the Supreme Court addressed several key issues, including the applicability of the doctrine of *res judicata* in industrial disputes and the standing of workers' unions to represent their members in legal proceedings. The court's reasoning highlights the balance between statutory provisions and customary practices, reflecting the complexities of industrial relations in a rapidly changing economic landscape.

This analysis will explore the court's interpretation of the law and its broader implications for labor unions, employers, and employees. By examining the judicial reasoning and the outcomes of the case, this assignment seeks to illuminate the enduring impact of this ruling on labor rights and industrial jurisprudence in India.

Through this exploration, we aim to foster a deeper understanding of the legal principles at play and their relevance in promoting fair labor practices. The insights gained from this case will not only enrich our comprehension of the legal framework governing labor relations but also underscore the importance of safeguarding workers' rights in an evolving industrial context.

### **SUMMARY OF FACTS**

The case involves a locality in the city of Bombay called Nag Devi, which is studded with small hardware businesses. These hardware establishments, numbering over a thousand, employ a considerable number of workmen, around 5,000 in total, although each unit has (barring four) less than the statutory minimum of 20 workmen. Prior to 1965, the hardware merchants in the Nag Devi locality were making ex-gratia payments to their workers by way of bonus as a gesture of goodwill, and over the years, these payments became a regular practice. However, in the year 1965, the hardware merchants abruptly stopped making the ex-gratia bonus payments to their workers, leading the workers, represented by the Mumbai Kamgar Sabha (the Union), to set up a claim for bonus, alleging that the industry (referring collectively to the hardware establishments) had made considerable profits.

The dispute over the payment of bonus was referred to a Board of Arbitrators under Section 10A of the Industrial Disputes Act<sup>1</sup>, which rejected the workers' demand for bonus. The dispute was then referred to an Industrial Tribunal for adjudication. The Tribunal dismissed the workers' demand for bonus, holding that it was barred by the principle of res judicata, based on the Arbitration Board's decision. The Tribunal also held that the bonus paid earlier was based on tradition and custom, and therefore, did not fall within the scope of the Bonus Act of 1965, which was a complete code. Aggrieved by the Tribunal's award, the Mumbai Kamgar Sabha, representing the workers, appealed against the decision before the Supreme Court.

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<sup>1</sup> The Industrial Disputes Act, 1947, S.10A, No. 14, Acts of Parliament, 1947 (India)

## ISSUES

The key issues in this case are:

1. Whether the workers' union (Mumbai Kamgar Sabha) had the locus standi (legal standing) to file the appeal, since the actual parties to the dispute were the workers and the employers.
2. Whether the claim for bonus for the years 1966-69 was barred by the principle of res judicata (a matter already decided cannot be re-litigated), since the Arbitration Board had earlier rejected the workers' demand for bonus for the year 1965.
3. Whether the workers' claim for bonus was based on custom or condition of service, rather than on profits, and hence not covered by the Payment of Bonus Act, 1965<sup>2</sup>.
4. If the workers' claim was based on custom or condition of service, whether the Payment of Bonus Act, 1965 still barred such a claim, as it was meant to be a comprehensive or complete code on the subject of bonus.
5. Whether the Industrial Tribunal had the competence and jurisdiction to entertain this industrial dispute, as argued by the respondents.
6. Whether the principle of constructive res judicata (a matter that could and should have been raised earlier is barred) applied in this industrial dispute context.

## ARGUMENTS

### ARGUMENTS FROM PETITIONER'S SIDE:

1. Locus Standi of the Union:
  - The Union (Mumbai Kamgar Sabha) is representing the collective interests of the numerous workers involved in the dispute, even though the workers themselves are not named as individual parties.
  - In industrial disputes, unions play a recognized representational role, and a liberal approach should be taken to the issue of locus standi, rather than a narrow, technical one.
  - Procedural requirements should not be allowed to defeat the substantive justice of the workers' claim. The essence of the matter is the dispute between the workers and the employers, which the Union is representing.

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<sup>2</sup> The Payment of Bonus Act, 1965, No. 21, Acts of Parliament, 1965 (India)

## 2. Claim for Customary/Condition of Service Bonus:

- The workers' claim for bonus is not based on profits, but on the long-standing custom and practice of the employers providing such payments, which had become an implied term of the workers' conditions of service.
- The terms of reference from the government specifically asked the Tribunal to examine if payment of bonus had become a custom or condition of service in these establishments.
- The workers' pleadings clearly articulated that the bonus claim was founded on custom and condition of service, not on profits.
- Precedents have recognized customary bonus and contractual bonus as distinct from profit-based bonus, and these forms of bonus are permissible under industrial law.

## 3. Scope of the Bonus Act:

- The Bonus Act is not a complete and exhaustive code covering all forms of bonus. It is primarily focused on regulating profit-based bonus.
- The history, object, and provisions of the Bonus Act indicate that its main purpose was to simplify and standardize the calculation of profit-based bonus, not to eliminate other forms of bonus not based on profits.
- The Act's recognition of customary bonus through provisions like Section 17<sup>3</sup> suggests that it did not intend to supersede or prohibit such forms of bonus outside the Act's framework.
- Denying the workers' claim for customary/condition of service bonus merely because it is not covered by the Bonus Act would be contrary to the constitutional goals of protecting the welfare of the working classes.

## **ARGUMENTS FROM RESPONDENT'S SIDE:**

### 1. Lack of Locus Standi of the Union:

- Technically, the Union (Mumbai Kamgar Sabha) cannot be the appellant, as the real parties in the dispute are the individual workers, not the Union.
- The Union is not a party to the dispute and does not have the locus standi to file this appeal. The workers should have been impleaded as individual parties.

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<sup>3</sup> The Payment of Bonus Act, 1965, S.17, No. 21, Acts of Parliament, 1965 (India)

- The cause title of the case incorrectly names the Union as the appellant, which is a procedural defect that cannot be overlooked.
- Precedents like *Dhabolkar*<sup>4</sup> and *Nawabganj Sugar Mills*<sup>5</sup> have held that in such cases, the Union cannot be the appellant, and the workers themselves should be the parties.

## 2. Res Judicata:

- The workers' claim for bonus has already been rejected by the Board of Arbitrators in 1967, and this decision operates as res judicata, barring the workers from raising the same claim again.
- The principles of res judicata, as laid down in the *Pandurang*<sup>6</sup> case, apply to industrial disputes as well. The workers cannot re-litigate the same issue under a different guise.
- Sections 10A, 18<sup>7</sup>, and 19(3)<sup>8</sup> of the Industrial Disputes Act support the binding nature of the prior arbitral award on the workers.

## 3. Scope of the Bonus Act:

- The Bonus Act is a complete and exhaustive code dealing with the entire subject of bonus payments.
- Whatever the species of bonus, if it is not covered by the provisions of the Bonus Act, it cannot be awarded by the Tribunal.
- The Act's exclusion of establishments with less than 20 workers, like the respondents' firms, means that the workers' claim for bonus falls outside the scope of the Act and is not maintainable.
- The decision in *Ghewar Chand*<sup>9</sup>'s case has held that the Bonus Act is a comprehensive law, and employees cannot resort to the Industrial Disputes Act to claim bonus outside the Act's framework.
- The Bonus Act's focus on profit-based bonus indicates that it does not recognize or provide for other forms of bonus, such as customary or contractual bonus.

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<sup>4</sup> Dhabolkar, [1976] 1 S.C.R. 306

<sup>5</sup> Nawabganj Sugar Mills, [1976] 1 S.C.C. 120

<sup>6</sup> Pandurang, [1975] II LLJ 345

<sup>7</sup> The Industrial Disputes Act, 1947, S.18, No. 14, Acts of Parliament, 1947 (India)

<sup>8</sup> The Industrial Disputes Act, 1947, S.19(3), No. 14, Acts of Parliament, 1947 (India)

<sup>9</sup> Ghewar Chand, [1969] 1 S.C.R. 366

## JUDGMENT

The Supreme Court adopted a magnanimous and inclusive approach in addressing the issue of the workers' union's standing to pursue this appeal. Recognizing the union's representative capacity as the collective voice of the workers, the court held that the Mumbai Kamgar Sabha could effectively champion the interests of the aggrieved employees, despite the workers themselves being the actual parties to the dispute. The judiciary underscored that the representation of workers through their unions is a commendable and progressive development in the realm of industrial jurisprudence, aligning with the principles of collective bargaining and the advancement of labor relations.

Turning to the doctrine of *res judicata*, the Supreme Court expressed reservations about its rigid application in the context of industrial disputes, which are governed by specialized methodologies and the overarching consideration of preserving industrial harmony. The court distinguished the present case from the precedent of *Pandurang*, where *res judicata* was invoked, noting that the current dispute involved a fresh matter before the Tribunal, rather than the same claim being resurrected under a different guise. This nuanced approach reflects the court's cognizance of the unique dynamics and pragmatic considerations that shape the resolution of labor-management conflicts.

In its comprehensive examination of the Bonus Act of 1965, the Supreme Court concluded that the legislation was primarily focused on regulating profit-based bonus schemes. Delving into the historical context, underlying objectives, and the overall scheme of the Act, the court determined that the statute did not intend to override or prohibit other forms of bonus, such as those rooted in customary practices or contractual agreements between employers and employees. This judicial recognition of the diversity of bonus structures, extending beyond the traditional profit-sharing model, aligns with the constitutional vision of safeguarding the welfare of the working classes.

Ultimately, the Supreme Court set aside the Industrial Tribunal's dismissal of the workers' claim and directed the Tribunal to adjudicate the matter on its merits, considering the workers' assertion of entitlement to customary or service-based bonus. While allowing the appeal, the court ordered the parties to bear their own costs, demonstrating a balanced and pragmatic approach in addressing the complex issues raised in this industrial dispute. The judgment stands as a testament to the Supreme Court's progressive and contextual interpretation of labor laws,

harmonizing the interests of workers and employers while upholding the constitutional ideals of social justice.

## **RELEVANCE OF JUDGMENT IN PRESENT TIMES**

### **1. Expansive Interpretation of Locus Standi and Worker Representation:**

The court adopted a liberal and inclusive approach to the issue of locus standi, holding that the workers' union could effectively represent the collective interests of the workers, even though the workers themselves were the actual parties to the dispute. The court emphasized that in the realm of industrial relations, the representation of workers through their unions is a welcome and progressive development, as it aligns with the principles of collective bargaining and the advancement of industrial jurisprudence.

This expansive interpretation of locus standi remains highly pertinent even in contemporary times, as it facilitates access to justice for workers and amplifies their collective voice. The court's recognition of the union's representative capacity is in harmony with the constitutional mandate of safeguarding the welfare of the working classes. However, the court's cautionary note on the need to be mindful of inter-union rivalries and to scrutinize the representative legitimacy of the union in certain cases is also a prudent consideration, reflecting the court's nuanced understanding of the practical complexities that may arise in industrial disputes.

### **2. Distinguishing Customary/Contractual Bonus from Profit-based Bonus:**

The court engaged in a detailed examination of the Bonus Act of 1965, delving into its historical context, underlying objectives, and the overall scheme of the legislation. Based on this comprehensive analysis, the court concluded that the primary focus of the Act was the regulation of profit-based bonus, and it did not intend to supersede or prohibit other forms of bonus, such as those rooted in customary practices or contractual agreements between employers and employees.

This judicial distinction between different types of bonus schemes remains highly relevant in the present-day industrial relations landscape, as the concept of bonus has evolved beyond the traditional profit-sharing model. Modern workplaces often incorporate a diverse array of bonus structures, including attendance-based bonuses, productivity-linked incentives, and performance-driven rewards, among others. The

court's emphasis on interpreting statutes in alignment with the constitutional vision of protecting worker welfare is a commendable approach that continues to hold significance.

However, it is important to note that the court's observations may require a more nuanced examination in light of subsequent amendments to the Bonus Act, which have expanded its scope and coverage. The impact of these legislative changes on the court's reasoning warrants careful consideration, as the legal landscape may have shifted since the time of this judgment. Nevertheless, the core principle of recognizing the diversity of bonus schemes and avoiding a narrow, formalistic interpretation of statutes remains a valuable guidepost for judicial decision-making in the realm of industrial relations.

### 3. Cautious Approach to Res Judicata in Industrial Disputes:

The court expressed reservations about the wholesale application of the doctrine of res judicata in the context of industrial disputes, acknowledging the unique methodologies and considerations that govern this specialized domain of law. The court distinguished the present case from the precedent of *Pandurang*, where res judicata was applied, on the grounds that the current dispute involved a fresh matter before the Tribunal, rather than the same claim being raised under a different guise.

The court's skepticism towards a rigid application of res judicata in industrial disputes remains highly relevant in contemporary times. Industrial relations often require a more flexible and pragmatic approach, focused on resolving disputes and maintaining industrial harmony, rather than being constrained by the technical rules of civil litigation. The court's observations on the importance of exploring non-litigative mechanisms for dispute resolution, such as negotiation and conciliation, align with the growing emphasis on alternative dispute resolution (ADR) methods in the field of industrial jurisprudence.

Principle of *res judicata* in contemporary Indian laws: Section 11<sup>10</sup> of The Code of Civil Procedure, 1908<sup>11</sup> defines the term as, “No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit

<sup>10</sup> The Code of Civil Procedure, 1908, S.11, No. 5, Acts of Parliament, 1908 (India)

<sup>11</sup> The Code of Civil Procedure, 1908, No. 5, Acts of Parliament, 1908 (India)

*between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.*

*Explanation I.—The expression “former suit” shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.*

*Explanation II.—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court. Explanation III.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.*

*Explanation IV.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.*

*Explanation V.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.*

*Explanation VI.—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating .*

*[Explanation VII.—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree. Explanation VIII.*

*—An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”* To explain in simple words, this provision enacts that once a matter has been conclusively adjudicated by a court of competent jurisdiction, no party shall be allowed to relitigate it in subsequent proceedings.

In the case of ***Satyadhan Ghosal v. Deorajin Debi***<sup>12</sup> AIR 1960 SC 941: (1960) 3 SCR 590, the Hon’ble Supreme Court observed that, “the principle of Res Judicata is based on the need of giving finality to the judicial decisions.”

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<sup>12</sup> Satyadhan Ghosal v. Deorajin Debi, AIR 1960 SC 941: (1960) 3 SCR 590

**Talluri Venkata Seshayya v. Thadvikonda Kotiswara Rao**<sup>13</sup> 1937 BOMLR 317: The Privy Council held that finding of gross negligence by the trial court was different from the finding of intentional suppression of the documents suggesting collusion on the part of plaintiffs as res judicata.

**Rural Litigation And Entitlement Kendra v. State of Uttar Pradesh**<sup>14</sup> 1985 AIR 652, 1985 SCR (3) 169, AIR 1985 SUPREME COURT 652, 1985 UJ (SC) 594, (1985) 2 CURCC 70, 1985 (2) SCC 431: The Supreme Court decided that the writ petitions filed are not disputes between specific parties but are public interest litigations. The main issue is whether mining in the area should be allowed or stopped to ensure social safety and a safe environment for people. Even if there was a final decision, in such cases, it's challenging to apply the principle of Res Judicata, which prevents the same issue from being tried again.

This progressive and contextual approach adopted by the Supreme Court in interpreting labor laws demonstrates a commendable effort to balance the interests of workers and employers, while upholding the constitutional vision of social justice. The principles discussed in this landmark judgment continue to hold relevance in the present-day industrial relations landscape, though they may necessitate nuanced application in light of subsequent legislative and jurisprudential developments.

## ANALYSIS & CONCLUSION

The Supreme Court's ruling in the case of *Mumbai Kamgar Sabha, Bombay v. Abdulbhai Faizullabhai & Ors.* emerges as a watershed moment in the intricate tapestry of labor law in India. This decision, rich in nuance and progressive thought, has indelibly shaped the rights of workers and the resolution of industrial disputes.

To begin with, the court's broad-minded perspective on the locus standi of workers' unions is both laudable and harmonizes beautifully with the principles laid down in previous landmark judgments. In earlier cases like *Dhabolkar* and *Nawabganj Sugar Mills*, the Supreme Court had asserted that the true parties to an industrial dispute—the individual workers—ought to take the stage as appellants, sidelining the union. Yet, in this pivotal case, the court embraced

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<sup>13</sup> Talluri Venkata Seshayya v. Thadvikonda Kotiswara Rao, 1937 BOMLR 317

<sup>14</sup> Rural Litigation And Entitlement Kendra v. State of Uttar Pradesh, 1985 AIR 652, 1985 SCR (3) 169, AIR 1985 SUPREME COURT 652, 1985 UJ (SC) 594, (1985) 2 CURCC 70, 1985 (2) SCC 431

a more inclusive viewpoint, acknowledging the union's indispensable role as a representative voice advocating for the collective rights of the workforce. These cases were held inapplicable, as the Court observed that the decisions cited were founded on the jurisdiction under Article 226<sup>15</sup> of the Constitution, which is more rigid, whereas industrial disputes require a more liberal approach.

This progressive stance resonates with the court's prior ruling in *Messrs. Ispahani Ltd. v. Ispahani Employees' Union*<sup>16</sup>, where it spotlighted the union's crucial function in nurturing industrial relations and underscored the necessity for a liberal reading of locus standi. The court's rationale here indicates a transformative shift in judicial insight regarding the intricate dynamics of labor disputes and the pivotal contribution of unions in articulating workers' collective interests. This case laid down the tests for inferring the existence of an implied agreement for payment of puja bonus.

The case *The Graham Trading Co. (India) Ltd. v. Its Workmen*<sup>17</sup> dealt with the essential ingredients to be established when payment of bonus as customary or traditional, is claimed.

Moreover, the court's meticulous deliberation on the application of res judicata within the realm of industrial disputes merits attention. In a previous judgment involving *Pandurang*, the Supreme Court had invoked this doctrine to prevent the re-litigation of identical issues. However, in the current case, the court adeptly distinguished the specifics, concluding that the matter at hand presented a novel situation for the Tribunal, rather than merely resurrecting an old claim under a new façade. The Court expressed doubt about the extension of the doctrine of constructive res judicata to industrial law, which is governed by special methodology of conciliation and adjudication.

This discerning approach underscores the court's awareness of the specialized methodologies and practical realities that govern the resolution of labor-management strife, as evidenced by rulings like *Howrah-Amta Light Railway*<sup>18</sup> and *Tulsidas Khimji*<sup>19</sup>. The court's advocacy for exploring non-litigious avenues—such as negotiation and conciliation—aligns seamlessly with

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<sup>15</sup> INDIA CONST. art. 226

<sup>16</sup> *Messrs. Ispahani Ltd. v. Ispahani Employees' Union*, [1960] 1 S.C.R. 24

<sup>17</sup> *The Graham Trading Co. (India) Ltd. v. Its Workmen*, (1960) 1 SCR 107, 111

<sup>18</sup> *Howrah-Amta Light Railway*, [1966] II LLJ 294, 302

<sup>19</sup> *Tulsidas Khimji*, [1962] I LLJ 435

the increasing focus on alternative dispute resolution (ADR) in industrial jurisprudence, a trend illuminated in cases like *Jardine Henderson*<sup>20</sup> and *Churakulam Tea Estate*<sup>21</sup>.

The case *Jardine Henderson* was discussed along with other rulings to show that the judiciary has recognized customary or contractual bonus as permissible in industrial law.

Another salient feature of this judgment is the court's thorough examination of the Payment of Bonus Act, 1965. By probing into its historical backdrop, foundational objectives, and overarching framework, the Supreme Court elucidated that the Act primarily aims to regulate profit-based bonus schemes. This interpretation echoes the court's earlier decisions in *Ghewar Chand* and *Satyadhan Ghosal v. Deorajin Debi*, where it was determined that the Bonus Act constitutes a complete code governing the domain of bonus payments.

*Ghewar Chand's* case was distinguished, as the Court held that it related only to profit bonus under the Industrial Disputes Act and did not cover customary or contractual bonus.

However, the court ventured beyond this established understanding, recognizing that the Act does not seek to preclude or invalidate other forms of bonuses, including those arising from customary practices or contractual arrangements between employers and employees. This judicial differentiation among various bonus schemes is profoundly relevant in today's industrial relations landscape, where the concept of a bonus has transcended the conventional profit-sharing paradigm.

The court's commitment to interpreting statutes in alignment with the constitutional mandate of safeguarding worker welfare, as seen in *Rural Litigation And Entitlement Kendra v. State of Uttar Pradesh*, is a praiseworthy approach that retains its significance. Though the court's insights may necessitate further examination in the context of subsequent amendments to the Bonus Act, the foundational principle of acknowledging diverse bonus schemes while steering clear of a narrow, formalistic interpretation remains a pivotal guidepost for judicial deliberation in the sphere of industrial relations.

In summation, the Supreme Court's judgment in *Mumbai Kamgar Sabha, Bombay v. Abdulbhai*

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<sup>20</sup> *Jardine Henderson*, [1962] Supp. 3 S.C.R. 382

<sup>21</sup> *Churakulam Tea Estate*, [1969] 1 SCR 931

*Faizullabhai & Ors.* stands as a beacon of the judiciary's progressive and contextually rich interpretation of labor laws. The court's thoughtful engagement with issues of locus standi, the nuanced application of res judicata, and the expansive interpretation of the Payment of Bonus Act have collectively paved the way for a precedent that continues to resonate in today's industrial relations milieu. The principles articulated in this landmark ruling, viewed in conjunction with earlier case law, vividly illustrate the court's unwavering dedication to harmonizing the interests of workers and employers, all while championing the constitutional tenets of social justice and worker welfare.

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