

)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4550 OF 2013
(Arising from SLP(C) No.3380 of 2007)

United India Insurance Company Limited

..Appellant

versus

Patel Roadways and another

..Respondents

O R D E R

Leave granted.

This appeal is directed against order dated 11.09.2006 of the National Consumer Disputes Redressal Commission, New Delhi (for short, 'the National Commission') whereby the respondents' appeal was allowed by relying upon the judgment in Oberai Forwarding Agency v. New India Insurance Company (2000) 2 SCC 407 and the order passed by the State Consumer Disputes Redressal Commission, Chennai (for short, 'the State Commission') in O.P. No.147 of 1996 was reversed.

We have heard learned counsel for the appellant and perused the record.

The judgment in Oberai Forwarding Agency (supra) became subject matter of re-consideration by the Constitution Bench in Economic Transport Organization, Delhi v. Charan Spinning Mills Private Limited and another (2010) 4 SCC 114. After considering the entire matter, the Constitution Bench answered the questions referred to it in the following terms:

"51. We therefore answer the questions raised as follows:

(a) The insurer, as subrogee, can file a complaint under the Act either in the name of the assured (as his attorney-holder) or in the joint names of the assured and the insurer for recovery of the amount due from the service provider. The insurer may also request the assured to sue the wrongdoer (service provider).

(b) Even if the letter of subrogation executed by the assured in favour of the insurer contains in addition to the words of subrogation, any word of assignment, the complaint would be maintainable so long as the complaint is in the name of the assured and the insurer figures in the complaint only as an attorney-holder or subrogee of the assured.

(c) The insurer cannot in its own name maintain a complaint before a Consumer Forum under the Act, even if its right is traced to the terms of a letter of subrogation-cum-assignment executed by the assured.

(d) Oberai is not good law insofar as it construes a letter of subrogation-cum-assignment, as a pure and simple assignment. But to the extent it holds that an insurer alone cannot file a complaint under the Act, the decision is correct."

| (Parveen Kr.Chawla)
| Court Master
|

| | (Phoolan Wati Arora)
| | Court Master
| |

|
|
|

[signed order is placed on the file]