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SLP(C)No. 6755 OF 2001

ITEM No.27

Court No. 8

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.6755/2001

(From the judgement and order dated 24/01/2001 in RP 283/97
of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

UNITED INDIA INS. CO. LTD. & ANR.

Petitioner (s)

VERSUS

B.A. ANWAR BASHA (D) BY LRS. & ORS.

Respondent (s)

(With prayer for interim relief and office report)

Date : 12/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s) Mr.A.K. Kaul,Adv.
Mr. Anil Kumar Jha,Adv.

For Respondent (s) Mr.T.Harish Kumar,Adv.
Mr. V. Krishna Murthy,Adv.

UPON hearing counsel the Court made the following
O R D E R

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Heard counsel for the parties for sometime.
Leave granted. The appeal is allowed. No costs.

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(Usha Bhardwaj) (S. Malkani)
P.S. to Registrar Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2897 OF 2002@@
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(Arising out of S.L.P. (Civil) No.6755 of 2001)

United India Insurance Co. Ltd. & Anr.Appellants

versus

B.A. Anwar Basha (D) by Lrs. & Ors. ..Respondents

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Leave granted.

This appeal filed by the Insurance Company is directed against the order of the National Consumer Disputes Redressal Commission in Revision Petition No.283 of 1997 setting aside the order passed by the State Commission and restoring the order of the District Forum.

The matter in dispute relates to repudiation of the claim of the respondents by the Insurance Company on the ground that the insurer had suppressed material informations regarding the condition of his health at the time of issue of the policy. The District Forum had accepted their claim for Rs.99,999/- giving certain reasons. The State Commission, on appeal by the Insurance Company, set aside the order passed by the

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District Forum and accepted the case for repudiation of the claim by the Insurance Company. In the Revision Petition filed by the claimants, the National Commission passed the order which reads as follows:

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"We set aside the order of the State Commission. The District Forum's order is restored. We set aside the order of the State Commission because the State Commission has relied upon the Surveyor's Report which is not borne out by any annexures. The allegations made by the Surveyor in his report is not corroborated by any evidence.

The Revision Petition is disposed of as above."

.SP2

Considering the case of the parties we are of the view that the National Commission should have passed a reasoned order disposing of the revision petition on merits. It is relevant to note here the observations of the National Commission that the State Commission has relied upon the Surveyor's Report which is not borne out by any annexures is incorrect. The Surveyor's Report was on record before the National Commission, and the Surveyor, in his report had not referred to any other document in support of his findings. In the circumstances, for the sake of proper adjudication of the dispute raised and in the interest of justice the

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matter should be remitted to the National Commission for fresh disposal.

Accordingly, the appeal is allowed. The order under challenge is set aside and the matter is remitted to the National Commission for disposal in accordance with law. No costs.

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.....J.
(D.P. MOHAPATRA)

New Delhi,
April 12, 2002

.....J.
(P.VENKATARAMA REDDI)