

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1357 OF 2005

ROTEX AUTOMATION LTD.

Appellant (s)

VERSUS

UNITED INDIA INSURANCE CO. LTD.

Respondent(s)

(With appln(s) for submitting evidence)

WITH

Civil Appeal NO. 1561 of 2008

Civil Appeal NO. 3223 of 2005

(With appln(s) u/s 340 Cr.P.C. for making an inquiry into an offence of giving false statement and office report)

Date: 06/08/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Appellant(s) Mr. R.P.Bhatt, Sr. Adv.
in CA 1357/05 & Ms. Nisha Bagchi, Adv.
1561/08 and for Mr. Mayur R.Shah, Adv.for
respondent in Mrs Sheil Mohini Sethi,Adv.
CA 3223/2005 Mr. Shankar Divate, Adv.

For Appellant(s) Mr. P.K.Seth, Adv.for
in CA 3223/2005 Mr. Sudhir Kumar Gupta, Adv.
and for respondent Ms. Manjit Chawla, Adv.
in other appeals

UPON hearing counsel the Court made the following
ORDER

The Civil Appeal Nos.1357/2005 and 3223/2005 are allowed and
Civil Appeal No.1561/2008 is disposed off in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

(Indu Satija)

Court Master

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1357 OF 2005

Rotex Automation Limited

..Appellant

versus

United India Insurance Co. Ltd.

..Respondent

WITH

CIVIL APPEAL NO.3223 OF 2005

CIVIL APPEAL NO.1561 OF 2008

ORDER

Heard learned counsel for the parties.

This Appeal has been filed against the impugned order of the National Consumer Disputes Redressal Commission, New Delhi dated 17th November, 2004 passed in the Original Petition No. 293 of 2001.

We have carefully perused the impugned order of the National Commission. The said judgment states that there is nothing to show that any claim was made for loss of profit under the LOP Policy. On this basis, the claim for loss of profit has been rejected by the National Commission.

In this connection, we have perused the original complaint filed before the National Commission. In paragraph VII of the complaint, it had been clearly mentioned that there was an original claim dated 20.05.1997,
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and a reference to this effect was made in the appellant's-company reply dated 15.05.2000 when the insurance company vide its letter dated 26.4.2000 had alleged that no claim for loss of profit had been made. Moreover, the very fact that a surveyor was appointed and the surveyor in his Report had reported that loss was due to the strike in the appellant's company showed that the appellant-company had made a claim in respect of both the policies viz. Fire Policy as well as LOP Policy.

Hence, we accept this appeal, set aside the impugned order of the National Commission and remand the matter to the National Commission to decide the matter afresh in accordance with law, expeditiously. No costs.

Civil Appeal No.3223 of 2005

This Appeal has been filed by the Insurance Company challenging the same impugned order for grant of Rs.11,087/- towards alleged damage to the plant and machineries along with interest @ 9% w.e.f. 20.7.1997 till realization.

Since, we have remanded the main appeal to the National Commission, we deem it appropriate to remand this matter as well to the National Commission and to dispose off the same together afresh in accordance with law, expeditiously. We order accordingly. No costs.

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Civil Appeal No.1561 of 2008

This Appeal has been filed by the company against the impugned order of the National Commission passed in the review application.

Since, we have remanded the main matter i.e. Civil Appeal No.

1357of 2005 and Civil Appeal No.3223 of 2005 to the National Commission
to decide them together afresh in accordance with law, expeditiously, no
orders need be passed in this appeal and it is disposed of accordingly. No
costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
AUGUST 06, 2009.

.....J.
[V.S. SIRPURKAR]