

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

CIVIL APPEAL NO(s). 1688 OF 2005

UNITED INDIA INSURANCE CO. LTD.

Appellant (s)

VERSUS

SONA SPICES PVT. LTD.

Respondent(s)

(With prayer for interim relief)

Date: 22/10/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr.K.L.Nandwani, Adv.for
Mr. Debasis Misra,Adv.

For Respondent(s) Mr. S.K.Sharma, Adv.
Mr. C.M.Sharma, Adv.for
Mr. Yash Pal Dhingra,Adv.

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

The Appeal is allowed in terms of the signed order.
No costs.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[Signed Order is placed on the File]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1688 OF 2005

United India Insurance Co. Ltd.

..Appellant

versus

Sona Spices Pvt. Ltd.

..Respondent

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned
order of the National Commission dated 30th January, 2003.

We have carefully perused the impugned order.

The

facts in detail have been set out in the impugned order and hence we are not repeating them here.

It appears that a complaint was filed before the State Forum alleging that there was a fire in the factory of the complainant on 22.03.1999 and hence it claimed compensation under the fire insurance policy. The State Forum allowed the claim and its judgment has been upheld by the National Commission thereby dismissing the appeal of the insurance company.

The National Commission in the impugned order has observed that the State Commission had found the report of the first surveyor M/s Duggal, Gupta & Associates not to be shown to be in any way defective or not acceptable. Learned counsel for the appellant has invited our attention to the said report dated 7.9.1999 of M/s. Duggal, Gupta &

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Associates. He has pointed out that at pages 33 & 42 of the report, the first surveyor has cast serious doubts on the version presented by the complainant. Moreover, in the second report of M/s. Consolidated Surveyors (P) Ltd. Dated 17.8.2000, it had been stated that the insured has attempted to avail a higher benefit under the policy by exaggerating his stock level by entering bogus purchases.

This second report has not been considered by the National Commission.

In view of the above, without expressing any opinion on the merits of the dispute, we accept this appeal, set aside the impugned order of the National Commission and remand the matter to the National Commission for a fresh decision in accordance with law, expeditiously, after considering the evidence on record and hearing the parties concerned. No costs.

We are informed by the learned counsel for the appellant that it has paid the amount awarded to the

claimant and he has prayed that it should be refunded to
the insurance company. We are of the opinion that the said
amount paid by the appellant to the respondent shall be
subject to the fresh decision of the National Commission
and this prayer may be made to the National Commission.

.....J.
[MARKANDEY KATJU]

NEW DELHI;J.
OCTOBER 22, 2009. [ASOK KUMAR GANGULY]