z5ITEM NO.111 COURT NO.10 SECTION XVII

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). 4224 OF 2000

NEW INDIA ASSURANCE CO. LTD. Appellant (s)

VERSUS

M/S.VIVEK COLD STORAGE (P) LTD. Respondent(s)

Date: 04/05/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant(s) Mr. P.K. Seth, Adv.

Mr. Sudhir Kumar Gupta,Adv.

For Respondent(s) Mr. Rana Mukherjee, Adv.

Mr. Siddharth Gautam, Adv.

Mr. Goodwill Indeever, Adv.

Mrs. Sumita Ray,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 order as to costs.

(Rajesh Dham) (Radha R. Bhatia)

Court Master Court Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4224 OF 2000

NEW INDIA ASSURANCE CO. LTD. Appellant (s)

VERSUS

M/S.VIVEK COLD STORAGE (P) LTD. Respondent(s)

O R D E R

We have perused the records and heard the learned counsel on both sides.

The only question in this Appeal, on which the Appellant-Insurance Company is liable to succeed, is whether the State Consumer Disputes Redressal Commission (for short 'the State Commission') could have granted additional amount of interest even though the District Consumer Disputes Redressal Forum (for short 'the District Forum') had made no such direction.

The respondent, a company engaged in running cold storage business, entered into an insurance contract with the appellant with regard to loss of the good stored in its cold storage. There was a power failure/leakage of gas as a result of which extensive loss was caused to the potatoes stored in the cold storage of the respondent. The respondent claimed value of goods (potatoes) lost, namely Rs. 2,38,147.46 p. from the appellant. On the claim

not

being accepted, the respondent moved the District Forum Calcutta and sought the sum of

Rs. 2,38,147.46 p. towards loss of potatoes and Rs. 65,252/- as excess premium refundable by

the appellant-Company together with interest on both the amounts. The District Forum, by

its order dated 28.02.1996, allowed the claim and directed that the appellant-Insurance

Company shall pay to the respondent the actual amount of money already paid by the

respondent herein to its hirers (owners of goods who had hired the storage facility and

stored their goods) on account of loss of potatoes from the cold storage unit due to the

occurrence of accident on 25.09.1990 "on production of cash vouchers to the opposite party

within one month".

The District Forum neither quantified the amount, nor granted interest, nor

directed refund of the alleged excess premium. Apparently, the respondent was satisfied by

this order because the respondent did not carry any appeal against the order of the District

Forum. Aggrieved by this order, the appellant-Insurance Company carried an appeal to the

State Commission.

The State Commission directed the appellant herein to pay the following amounts

to the respondent by its order dated 26.07.1996 :

a) an amount of Rs. 65,242/- for extra premium paid to the appellant;

b) An amount of Rs. 88,356/- as interest thereon

c) An amount of Rs. 2,38,147/- towards the value of loss of goods (potatoes) and

an amount of Rs. 2,25,048/- as interest thereon.

A revision was carried by the Insurance Company before the National Consumer Disputes Redressal Commission (for short 'the National Commission'). The National Commission dismissed the revision. Hence, the Insurance Company is in appeal before us.

We are of the view that the State Commission had no jurisdiction to direct payment of Rs. 65,242/- as refund of extra premium paid or Rs. 88,356/- as interest thereupon or an amount of Rs. 2,25,048/- as interest on the award of claim of Rs. 2,38,147/- in an appeal filed by the insurer. The District Forum has directed payment of only the value of goods lost and nothing else. The respondent did not file any appeal against the non-grant of other claims. To this extent, the judgment of the State Commission was without jurisdiction. We are satisfied that granting of any amount beyond the amount of Rs. 2,38,147/- by the State Commission was without jurisdiction.

In the result, we set aside the orders of the National Commission and the State Commission, affirm the judgment of the District Forum and hold that the only amount payable to the respondent would be the aforesaid sum of Rs. 2,38,147/- towards loss of potatoes. Any amount paid in excess thereof shall be refunded by the respondent to appellant-the Insurance Company within a period of eight weeks, failing which it shall carry interest at the rate of 12% per annum from this order to date of repayment.

The Appeal is allowed accordingly. No order as to costs.

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..J.

(B.N. SRIKRISHNA)

.....
..J.

(R.V. RAVEENDRAN)

NEW DELHI;

MAY 04, 2006.