

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2341/2010

M/S GURU NANAK ELECTRICAL INDUSTRIES

APPELLANT(S)

VERSUS

THE NATIONAL INSURANCE CO. LTD.

RESPONDENT(S)

O R D E R

The appellant is aggrieved by the order dated 14.01.2009 of the National Consumer Disputes Redressal Commission enhancing the amount to be paid under the insurance policy by Rs.68,832/- only, whereby the respondent has been held liable to pay a total sum of Rs.2,18,832/- to the appellant with interest @ 9% per annum as awarded by the State Commission.

Learned counsel for the appellant submitted that the claim was for a total sum of Rs.4,30,000/- being the value of the goods which were stolen on the intervening night of 5/6.11.1991. The surveyor was biased against the

appellant because it had made certain complaints against the former. All the relevant documents to show the stock position had been shown to the surveyor but he still submitted a report that the appellant had failed to provide sufficient evidence with regard to the value of the goods.

Learned counsel for the respondent submitted that the burglary occurred in November, 1991. The sum insured during the said period was Rs.2,25,000/- only. The surveyor reported that suspicious bills had been submitted. To the extent, the claim was found genuine, it had been paid to the appellant.

We have considered the submissions on behalf of the parties. The appellant took an insurance policy during the relevant period from 17.12.1990 to 16.12.1991 for a value of Rs.2,25,000/- only. The burglary is said to have been committed on the intervening night of 5/6.11.1991. Intimation having been given to the insurance company, the next day, the surveyor inspected the premises and submitted a report leading to repudiation of the

insurance claim on 09.03.1993 by the respondent *inter alia* on the ground that the bills submitted in support of the loss as evidence were not found genuine and appeared to be fictitious.

We are of the considered opinion that if the appellant was in possession of all the necessary documents to show the stock position, the value of goods, invoices etc. as asserted in its letter dated 14.02.1992 addressed to the respondent, there is no reason, that if the surveyor was biased as alleged, it could not have been produced by the appellant before the State Commission where the claim was lodged.

On the contrary, the State Commission with regard to the nature of evidence placed by the appellant has observed as follows:

"There is no material on the record to show that the loss said to have been caused by the burglary really amounted to Rs.4,30,000/- and old. In this view of the matter, the calculation made by the surveyor on the basis of what he found at the spot can safely be relied upon as the actual amount of loss suffered by the alleged theft."

In the circumstances, the State Commission after examination of facts relied upon the surveyor's report recommending the loss for a sum of Rs.2,18,832/- but accepted the plea of the respondent for 25% deduction from the aforesaid amount. Thus, the State Commission awarded a sum of Rs.1,50,000/- only.

In appeal by the appellant, the National Commission came to the conclusion that there was no justification in the law much less any authority in the respondent to deduct 25% of the assessed loss and, thus, awarded an additional amount of Rs.68,832/-. Thus, the insurance company was directed to pay Rs.2,18,832/- to the appellant which is also within the insurance value. Once, there has been an examination on facts, and the appellant failed to establish by cogent evidence the value of the goods which was the subject matter of the theft, the surveyor for reasons recorded rejected it in part, the appellant failed to produce any evidence before the State Commission to controvert that part of the surveyor's

report which rejected the claim in part, we find no reason to interfere with the order of the National Commission which has rightly ordered for appropriate compensation to the appellant in terms of the policy.

The appeal is dismissed.

.....J.
[NAVIN SINHA]

.....J.
[A.S. BOPANNA]

NEW DELHI;
FEBRUARY 06, 2020.

ITEM NO.109

COURT NO.13

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2341/2010

M/S GURU NANAK ELECTRICALS INDUSTRIES

Appellant(s)

VERSUS

THE NATIONAL INSURANCE CO.LTD.

Respondent(s)

Date : 06-02-2020 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE A.S. BOPANNAFor Appellant(s) Ms. Rachana Srivastava, AOR
Mr. S. Saini, Adv.For Respondent(s) Mr. Ravi Bakshi, Adv.
Mr. Yash Pal Dhingra, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.(ASHWANI THAKUR)
COURT MASTER (SH)(DIPTI KHURANA)
COURT MASTER (NSH)

(Signed order is placed on the file)