

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2194 OF 2009

New India Assurance Company Ltd. & Anr.Appellants
Versus
Glyder Bush Bearing Industries (India)Respondent

O R D E R

Heard Mr. P.K. Seth, learned counsel for the appellants-insurance company, in support of this appeal. Mr. P.S. Patwalia, learned Senior Counsel, appears for the respondent.

2. This appeal seeks to challenge the order passed by the National Consumer Disputes Redressal Commission (hereinafter referred to as the 'National Commission') in Original Petition No.245 of 2001 whereby the National Commission has awarded compensation to the respondent to the tune of Rs.20,87,856/- with interest at the rate of 12% per annum from 01.03.2000 till its payment.

3. The facts leading to this appeal are as follows:

4. The respondent herein was running a factory manufacturing gun metals and white metal bushings and bearings for engines at Phagwara, District Kapurthala, Punjab. The respondent had insured its factory with the appellants-insurance company for the period 07.08.1998 to 06.08.1999 for its stocks and stocks in process.

5. It so happened unfortunately that there was a fire in the factory on 31.05.1999 at about 6.45 a.m. The fire could be controlled only after five hours by which time the stocks got gutted.

6. The respondent lodged its claim with the appellants-insurance company. The appellants-insurance company appointed a surveyor M/s Mittal & Co. and the surveyor assessed the loss at Rs.6,38,495/-. Feeling aggrieved by that assessment, the respondent filed an appropriate complaint. The complaint was initially before the State Commission but considering the amount that was claimed, it was transferred to the National Commission.

7. When the matter was heard by the National Commission, initially the National Commission appointed a Chartered Accountant named Mr. N.S. Sidhu but his report did not specifically give the figure of

compensation which ought to have been awarded to the respondent.

8. The National Commission therefore appointed another Chartered Accountant company viz., M/s Sokhi Syal & Company, after consulting the respondent. This second Chartered Accountant company looked into the standard accounting practices and assessed the loss at Rs.20,86,645/-. It looked into the stock statements filed by the respondent with the bankers. It also looked into the report given by the Valuers of the appellants and took into consideration the various items that were lost. As far as bushes were concerned, it took the fair value of Rs.45/- per bush and for the bush sets, it took Rs.130/-. This was when rates for bushes varied from Rs.14/- to Rs.551/-. It was on that footing that the figure of Rs.20,86,645/- was arrived at. The National Commission found that this figure was comparable with the 'value at risk' figure arrived at by the valuers of the appellants which was Rs.20,87,856/-. Therefore, the National Commission awarded amount of Rs.20,86,645/- as the amount of compensation to the respondent.

9. Being aggrieved by that order of the National Commission, this appeal has been preferred. Mr. P.K. Seth, learned counsel for the appellants submitted that the valuation done by the valuers of the appellants-insurance company has to be accepted and therefore, he relied upon sub-section (2) of section 64UM of the Insurance Act, 1938 which reads as under :

"64UM. Licensing of surveyors and loss assessors.-(1) xxxxx

(2) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding twenty thousand rupees in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance (Amendment) Act, 1968, shall, unless otherwise directed by the [Authority], be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor") :

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor."

10. Now as can be seen, this is a requirement which the appellants-insurance company has to follow. This cannot be binding on the National Commission which is expected to decide whether the amount of compensation arrived at by the valuer is correct or otherwise. In the present case, the figure under the caption 'value at risk' given by the valuer of the appellants-insurance company was found to be comparable with the figure of loss given by the second Chartered Accountant company and on that basis, the National Commission arrived at the figure of Rs.20,87,856/- which figured in the report of the valuer.

11. The National Commission also took into account the fact that the damaged stocks could not be put into use since with a friction of dis-alignment these stocks are of no use.

12. In this view of the matter, we do not find any error in the

