ITEM NO.47 COURT NO.9 SECTION XVII

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

Petition(s) for Special Leave to Appeal (Civil) No(s).28693/2009

(From the judgement and order(s) dated 17-APR-09 in RP No. 3625/2007 of The NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW DELHI)

L.I.C.OF INDIA & ANR. Petitioner(s)

VERSUS

HIRA LAL Respondent(s)

Date: 23/08/2011 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s) Mr. P.S. Patwalia, Sr.Adv.
Mr. S. Rajappa,Adv.

For Respondent(s) Mr. Vikash Singh, Adv.
Ms. Charu Mathur,A.O.R.

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against the order passed by the National Consumer Disputes Redressal Commission (for short, "the National Commission") whereby the revision preferred by the petitioners against the order of the Himachal Pradesh State Consumer Disputes Redressal Commission, Shimla (for short, "the State Commission"), which had upheld the respondent's claim for insurance amount was dismissed.

We have heard Shri P.S. Patwalia, learned senior counsel appearing for the petitioners and Shri

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Vikash Singh, learned counsel appearing for the respondent and carefully perused the record.

The complaint filed by the respondent under Section 12 of the Consumer Protection Act for directing the petitioners to pay the amount in accordance with the insurance policy on the premise that he had suffered permanent blindness due to accident was dismissed by the District Consumer Forum. The State Commission, after threadbare examination of the matter allowed the appeal filed by the respondent. Paragraphs 21 to 27 of the order passed by the State Commission which contained detailed reasons for granting relief to the respondent read as under:

"21. The ex-pression "accident" is used in the policy in ordinary sense of the word as noted hereinabove, an unlocked mishap or untoward event which is not expected or designed. As per Dictionary of Insurance Law, by E.R. Hardy, 1981 Edition, "accident means, "a term involving the idea of something

fortuitous and unexpected. It is difficult to define the term "accident" as used in a policy of this nature, so as to draw with perfect accuracy a boundary line between injury or death from accident, and injury or death from natural causes; such as shall be of universal application". At the same time, we may safely assume that, in the term "accident" as so used, some violence, casualty or vis major, is necessarily involved. We cannot think disease produced by the action of a known cause can be considered as accidental". Sinclair v. Maritime Passengers Assurance Co. (1861) 3 E & E 478 at 485 (per Cockburn CJ).

22. An injury is caused by accident where it is the natural result of a fortuitous and unexpected cause e.g. where the insured is run over by a train (Lawrence v. Accidental Insurance Co. Ltd. (1881) 7 QBD 216), or is thrown from his horse while hunting (Re

Etherington and Lancashire and Yorkshire Accident Insurance Co. (1909) 1 K B 591, CA), drinks poison by mistake (Cole v Accident Insurance Co. Ltd. (1889) 61 T 227), is suffocated by an escape of gas (Re United London and Scottish Insurance Co. Ltd., Brown's Claim (1915) 2 Ch 167, CA), or is drowned whilst bathing (Trew v Railway Passengers' Assurance Co (1861) 6 H & N 839, Ex Ch).

23. As per Mozley and Whiteley Law Dictionary, Eighth Edition 1970, "accident" is defined as follows:

> "ACCIDENT: As a ground for seeking the assistance of a court of equity, accident means not merely inevitable casualty, or the act of God, or, as it is called, Vis major, but also such unforeseen events, misfortunes, losses, acts, or omissions as are not the result of negligence or misconduct".

24. At the risk of repetition, we may observe that Dr. Chaudhary has, in his cross examination on behalf of the Insurance Company, admitted that blindness in the present case is not the result of an injury or accident. Whereas on the other hand, defence of the respondents while contesting the complaint was that since the disease was hereditary, therefore, it cannot be termed as an accident within the meaning of policy of insurance, as such, they are not liable to indemnify the appellant. In our opinion, the meaning of word "accident" is being interpreted by the respondents to mean that the blindness in case of the appellant was due to something which was expected and/or was due to any cause attributable to the appellant himself. There is nothing on the record placed by them to show that the blindness was attributable in any manner

whatsoever to the appellant himself or any act on his part. And as already noted, this word has not been defined in the Insurance policy. We have made reference to the dictionary meaning of this word as noted in

detail hereinabove. Sum and substance of the dictionary meaning of this word, in our opinion, clearly shows that it has to be something unexpected and not attributable to the person concerned like appellant in the present case. Therefore, as such the only irresistible conclusion based on the legal evidence as well as the dictionary meaning of the word "accident", we are of the view that 100% blindness in case of the appellant is an accident. Another reason to take this view is that it is not the case either of the respondents or in the opinion of the doctor, that the 100% blindness occurred due to anything attributable to the appellant himself and/or he was instrumental in his blindness in any way.

25. It is by now well settled that when two interpretations are possible, while examining a case of the present nature, one beneficial to the consumer has to be followed.

26.Mr. Tajta, learned Counsel for the respondents forcefully urged that the dictionary meaning has no relevance in the context of the terms of the policy subject to which the appellant was insured by his clients. He further submitted that unless it is shown to be a case of some mishap, no benefit can be given to the appellant so as to hold that the blindness was caused due to any accident within the meaning of the policy. We are unable to agree with this submission for the simple reason that this blindness was totally unexpected in the circumstances of this case. Therefore, we reiterate that the blindness suffered by the appellant was neither designed by him nor was it in any manner attributed to any act on his own part so as to show that it was not due to any unforeseen or unexpected cause to exonerate the respondents.

27. Last but not the least, Life Insurance Corporation of India has been constituted by the Government of India after merger and taking over of large number of the then private players in the insurance sector. It

is a piece of social legislation aimed at ensuring that the beneficiaries get their due and legitimate in accordance with law. And according to us, if the submission of Mr. Tajta in the circumstances of this case is accepted, our approach would be too pedantic and narrow besides being contrary to the meaning of the word "accident" as noted in the preceding paras. Faced with this

situation, Shri Tajta, again persisted with vehemence that in the circumstances of this case by no stretch of imagination, the blindness of the deceased can be termed to be due to accident within the meaning of the terms of the policy. This submission is being noted simply to be rejected, as in our opinion, it has no basis either in law or in the facts of this case."

The National Commission independently examined the matter and agreed with the State Commission that the respondent had suffered blindness due to accident and he was entitled to the insurance amount.

In our view, the concurrent finding arrived at by the State Commission and the National Commission on the cause of blindness of the respondent does not suffer from any legal infirmity.

The special leave petition is accordingly dismissed.

Petitioner No.1 is allowed 6 weeks' time to pay the amount to the respondent in terms of the order passed by the State Commission.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master