

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).27947/2009

(From the judgement and order dated 09/07/2009 in FA No. 225/2004
of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

M/S SHAMBHUNATH MUKAND

Petitioner(s)

VERSUS

NEW INDIA ASSURANCE COMPANY

Respondent(s)

Date: 04/10/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s)

Mr. Tanmaya Mehta, Adv.
Mr. Raghavendra S.Srivatsa,Adv.

For Respondent(s)

Ms. Meenakshi Midha, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Nidhi Chugh)

Sr. P. A.

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8526 OF 2010

(Arising from SLP(C) No.27947 of 2009)

(Indu Satija)

Court Master

Shambhunath Mukand

..Appellant

versus

New India Assurance Company

..Respondent

O R D E R

Heard learned counsel for the parties.

Leave granted.

This appeal has been filed against the impugned judgment of National Consumer Disputes Redressal Commission, New Delhi, (for short 'National Commission') dated 09.07.2009 passed in First Appeal No. 225/2004.

The facts have been mentioned in the impugned judgment, hence we are not repeating the same here.

It appears that there was damage to the appellant's stocks of molasses due to the flood which took place from 30.08.2000 to 02.09.2000. Appellant filed a claim petition before the Uttar Pradesh State Consumer Disputes Redressal Commission, Lucknow, which dismissed the claim. However, his appeal has been partly allowed by the National Commission by the impugned order allowing only 2/3rd of the amount claimed.

This appeal has been filed by the appellant claiming that the full amount of the claim should have been allowed by the National Commission as against only 2/3rd which has
CIVIL APPEAL NO.8526 OF 2010

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been granted by the National Commission.

We have carefully considered the material on record. The contract of insurance is Annexure P1 to this appeal. In our opinion, the National Commission should have decided the appeal strictly in the light of the terms of the Insurance Policy. From a reading of the order under appeal, the National Commission does not appear to have done so. We are therefore left with no alternative except to remand the matter back to the National Commission to decide the same afresh in accordance with law taking into account the terms of the Insurance Policy and other material on record.

Accordingly, this appeal is allowed, impugned

judgment of the National Commission is set aside and the matter is remanded back to the National Commission to decide the matter afresh in accordance with law, expeditiously, taking into account the terms of the insurance policy and the other material on record. No costs.

All contentions are left open to the parties to be urged before the National Commission as available to them on facts and in law.

.....J.
[MARKANDEY KATJU]

NEW DELHI;J.
OCTOBER 04, 2010 [T.S. THAKUR]