

Oriental Insurance Co. Ltd.

Vs

Samayanallur Primary

Agricultural Coop. Bank

Civil Appeal No. 8716 of 1997

(S. Saghir Ahmad, R. P. Sethi JJ)

02.11.1999

### JUDGMENT

SETHI, J.-

1. The respondent Bank had taken two insurance policies with the appellant company out of which one was a cash insurance policy of Rs 1 lakh and the second was a burglary insurance policy for Rs 25 lakhs. The period covered by the latter insurance policy was from 6-11-1992 to 5-11-1993. On the night of 27-1-1993 an incident of burglary took place in the premises of the insured Bank and the cash chest was found missing for which a complaint was lodged with the police and claim made with the appellant Company for the value of pledged jewellery which was alleged to have been lost together with cash of Rs 9279.25. The district consumer Redressal forum, Madurai (hereinafter referred to as "the district Forum") where the complaint was filed allowed the claim of the respondent Bank and awarded to as "the State commission") set aside the award of the district forum holding that "cashier's cash box" in which the jewellery and cash was alleged to be kept was not a "loss of only cash or jewellery in safe". The revision preferred by the respondent Bank was partially accepted by the National consumer disputes Redressal Commission, New Delhi (hereinafter referred to as "the National commission") by setting aside the finding insofar as it related to the meaning of the word "safe" as interpreted by the State commission and the case remanded to the State commission for the purposes of investigation into the matter for determining the question of quantum of loss actually caused to the respondent Bank. Not satisfied with the order of the National Commission, the appellant Company has preferred this appeal.

2. Learned counsel appearing for the appellant company has contended that the National commission was not Justified in seeking the aid of dictionaries to interpret the meaning of the expression "safe" in the instant case was required to be interpreted by having reference to the insurance policies and the other connected documents. We find substance in his submission.

3. The insurance policy relating to housebreaking or burglary shows that the gold and jewels were pledged in "safe". Cash and notes secured which were insured were such cash and notes which were locked in "safe". The proposal for insurance of the contents of business premises against housebreaking and burglary, as submitted by the respondent Bank, contained various information required and actually submitted by the insured. Columns 3(a) and (b) of the said proposal read as:

"3. (a) Are all Valuables

secured in burglary resisting safes when premises are locked Yes

(b) If so, state name or maker of safe and cost Tansi"

Against Entry 3(a) the insured had stated "yes" and against entry 3(b) the make of the safe was specified. A combined reading of the proposal of insurance and the insurance policy clearly indicate that the gold jewellery and the cash were insured in a safe and locked safe which was specified by the insured in the proposal itself. Admitted from the "safe" for which the insurance policy was issued. According to the complainant the burglary had been committed from the "cashier's cash box". The surveyor, namely, Shri Sreedharas in his survey report dated 27-1-1993 submitted that the stolen jewels had not been kept in a safe locker and the theft was not covered under the burglary insurance policy. The District Forum without properly appellat company to pay a total sum of Rs 43, 729.25. The State Commission referred to the burglary policy produced before it as Exhibit A-3 covered "pledged gold jewellery in safe" and the insurance proposal Exhibit B-7 had clearly mentioned that all the valuables were secured in burglary-resistant safe made by Tansi. The cash box was held to be a smaller container kept by the cashier near the cash counter which was easily removable. The State commission further held:

"What is insured is not the contents of the cash box but the jewels kept in the safe which means safety locker made by Tansi as agreed to in the proposal form in Ext. B-7. It is clear therefore that the jewels kept in the cashier's cash box is not covered by Ext. A-3 policy."

The State Commission appreciated the real controversy between the parties and decided the dispute on interpretation of the insurance policies and the proposal produced before the District Forum. There was no necessity of referring to the dictionaries for understanding the meaning of the word "safe" which the parties in the instant case are proved to have understood while submitting the proposal and accepting the insurance policy. The cashier's box could not be equated with the safe within the meaning of the insurance policy. The alleged burglary and the removal of the cash box containing the jewellery and cash was not covered by the insurance policy between the parties. The insurance policy has to be construed having reference only to the stipulations contained in it and no artificial far-fetched meaning could be given to the words appearing in it. The National Commission was, therefore, not justified in setting aside the order of the State commission and remanding the purposes of ascertaining the extent of actual loss caused to the respondent. The order of the State Commission did not suffer from any illegality or error of jurisdiction requiring interference by the National Commission.

4. under the circumstances this appeal is allowed by setting aside the order of the National commission and restoring the order of the State Commission. The complaint filed by the respondent Bank shall be deemed to have been dismissed. No costs.