

ITEM NO.49 **R E V I S E D** SECTION XIV-A
COURT NO.14

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

SLP(Civil) Nos.21052-21053/2014
Civil Appeal Nos.1779-1780/2020

DELHI ASSAM ROADWAYS CORP. LTD.
(NOW KNOWN AS DARCL LOGISTICS LTD.) Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO.LTD. Respondent(s)

Date : 24-02-2020 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s) Ms. Anie Goel, Adv.
Mr. A. C. Tiwari, Adv.
Mr. Rizwan Aftab, Adv.
Mr. V. N. Raghupathy, AOR

For Respondent(s) Mr. A. N. Arora, AOR
Mr. Harsh Kumar, Adv.
Mr. Binay Kumar Das, AOR

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

Leave granted.

Civil appeals are allowed.

Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI)
COURT MASTER

(DIPTI KHURANA)
COURT MASTER

(Revised signed order is placed on the file)

R E V I S E D

SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.1779-1780/2020
(Arising out of SLP (Civil) No.21052-21053/ 2014)

DELHI ASSAM ROADWAYS CORP. LTD.
(NOW KNOWN AS DARCL LOGISTICS LTD.)

APPELLANT(S)

VERSUS

UNITED INDIA INSURANCE CO. LTD.

RESPONDENT(S)

O R D E R

Leave granted.

The appellant is aggrieved by the Order of the National Consumer Disputes Redressal Commission rejecting the revision as well as the review application filed by the appellant. The appellant is the registered owner of a volvo truck bearing registration number HR38G6993 which was insured with the respondents. During the validity of the policy, the vehicle met with an accident. The surveyor submitted his report on 15.4.2005. The appellant submitted a claim of Rs.17,31,700/- (Rupees Seventeen Lakhs Thirty One Thousand Seven Hundred Only) for repairs of the truck which was repudiated by the respondent on the ground that the truck was carrying load in excess of the permissible load capacity mentioned in the registration certificate. The District forum opined that the repudiation in the circumstances was valid and the appeal was also dismissed by the State Commission.

Learned counsel for the appellant relies on Amalendu Sahoo vs. Oriental Insurance Co. Ltd. (2010) 4 SCC 536 to submit that in accordance with the general guidelines issued

by insurance company, even if the truck was overloaded, while the surveyors report mentions no such reasons, still the appellant was entitled to reimbursement of the insurance claim at 75% of the admissible claim on non-standard basis.

Learned counsel for the respondent submits that it is not disputed that the truck was over loaded and was carrying goods beyond its certified capacity as mentioned in registration certificate. The concurrent rejection of the insurance claim by three forums thereof calls for no interference.

We have considered the submissions on behalf of the parties. The only breach alleged on part of the appellant is that the vehicle was carrying load in excess of that permissible under the registration certificate. While the load carrying capacity mentioned in the registration certificate mentions the registration laden weight as 49000 Kgms, the truck was in fact carrying load of 68,670 kgms. But the surveyors report does not mention that as the reason for the accident. Be that as it may be, the discussion need not detain us any further in view of the following observations contained in paragraph 14 and 15 of *Amalendu Sahoo Vs. Oriental Insurance Co. Ltd.* reads as follows:-

"14. In this connection reference may be made to a decision of National Commission in the case of New India Assurance Company Limited v. Narayan Prasad Appaprasad Pathak reported in (2006) CPJ 144 (NC). In that case also the question was, whether the insurance company can repudiate the claims in a case where the vehicle carrying passengers and the driver did not have a proper driving licence and met with an accident. While granting claim on non-standard basis the National Commission set out in its judgment the guidelines issued by the insurance company about settling all such non-standard claims. The said guidelines are set out below:-

Sr. No.	Description	Percentage of Settlement
(i)	Under declaration of licensed carrying capacity	Deduct 3 years' difference in premium from the amount of claim or deduct 25% of claim amount, whichever is higher.
(ii)	Overloading of vehicles beyond licensed carrying capacity	Pay claims not exceeding 75% of admissible claim.
(iii)	Any other breach of warranty/ condition of policy including limitation as to use	Pay upto 75% of admissible claim.

15. From a perusal of the aforesaid guidelines it is clear that one of the cases where 75% claim of the admissible claim was settled was where condition of policy including limitation as to use was breached."

In view of the same the appeals are allowed and the appellant is held entitled to 75% of the admissible claim in accordance with law.

The due amount must be paid within a period of four weeks' failing which it will carry interest at the rate of 9% on the date of expiring of this period of four weeks.

.....J.
[NAVIN SINHA]

.....J.
[KRISHNA MURARI]

NEW DELHI;
24th FEBRUARY, 2020

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COURT NO.14

SECTION XIV-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

SLP(Civil) Nos.21052-21053/2014
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DELHI ASSAM ROADWAYS CORP. LTD.
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Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO.LTD.

Respondent(s)

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CORAM : HON'BLE MR. JUSTICE NAVIN SINHA
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Mr. Binay Kumar Das, AOR

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

Leave granted.

The appeal is allowed.

Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
COURT MASTER

(signed order is placed on the file)