

consideration the report of the surveyor and in the totality of the facts and circumstances, a lumpsum amount of Rs.16,00,000/- (Rupees sixteen lakhs) was awarded. We may notice that the claim arises from an incident of 1999 and the orders were passed only in the year 2007, after eight years, as aforesaid, with cost of Rs.5,000/- (Rupees five thousand). In this period of eight years, the appellant was deprived of the amount.

4. The respondent-Insurance Company preferred First Appeal No.51 of 2008 before the National Consumer Disputes Redressal Commission, New Delhi (National Commission) and had obtained an interim order during the pendency of the appeal by deposit of part of the amount. The amount of Rs.5,00,000/- was permitted to be withdrawn by the appellant. The appeal was ultimately taken up for hearing and decided vide order dated 29th August, 2013. The operative part of the order is as under:

"We, therefore, uphold the order of the State Commission and dismiss the present First Appeal. Appellant/Insurance company is directed to comply with the order of the State Commission and pay the awarded amount to the Respondent/Complainant within a period of 3 months."

5. It is a case of the respondent that they paid the amount as per the order of the State Commission i.e. Rs.16,00,000/- (Rupees sixteen lakhs) within three months period of time i.e. Rs.8,00,000/- initially paid and the

balance amount a little over Rs.8,00,000/- (Rupees eight lakhs) was paid later. The appellant was not satisfied and preferred execution proceedings before the State Commission which directed the balance interest amount to be paid in terms of order dated 30th October, 2015. However, in the revision petition filed against the same, by the impugned order dated 17th March, 2017, it has been observed that the claim for interest was not justified.

6. We have heard learned counsel for the parties and we are not in agreement with the view taken by the respondent-Insurance Company.

7. When any party approaches the appellate forum and obtains conditional order of stay, the deposit made is only to prevent the remaining amount being paid. If the appeal is lost, the whole amount becomes due as per of order/decreed of the court below. In the present case the National Commission dismissed the appeal and thus observed that the amount had to be paid as per the order of the State Commission. Interim orders to protect the respondent in the interregnum period during the pendency of appeal certainly cannot affect the decree which arises out of the order of the State Commission though, naturally, the amount released to the appellant as a condition of stay would be adjusted against the amount due. The effect of the order of the National Commission was to reiterate the order of the State Commission which had directed payment of Rs.16,00,000/- by 31st March,

2008, failing, interest @ 9% from 1st November, 1999 would be chargeable. The amount was not deposited within that window, nor even interim order obtained, though soon after that the interim order was obtained. In our view, that would not make any difference.

8. We are of the view that order/decreed of the State Commission must be implemented in its entirety and thus the view taken by the State Commission in execution proceedings vide order dated 30th October 2015 is the correct view and consequently the impugned order of the National Consumers Redressal Commission is liable to be set aside.

9. The appeal is accordingly allowed, leaving the parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

New Delhi;
February 7, 2020.

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

Petition(s) for Special Leave to Appeal (C) No(s). 5080/2018

(Arising out of impugned final judgment and order dated 17-03-2017 in RP No. 29/2016 passed by the National Consumers Disputes Redressal Commission, New Delhi)

YASHOWANTA NARAYAN DIXIT

Appellant(s)

VERSUS

ORIENTAL INSURANCE CO.LTD.

Respondent(s)

Date : 07-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Shibashish Misra, AOR

For Respondent(s) Ms. Manjeet Chawla, AOR
Mr. Karri Venkata Reddy, Adv.
Mr. Pankaj Seth, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file.)