

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 4545/2017

M/S METCALFE AND HODGKINSON PVT LTD

Appellant(s)

VERSUS

PEACE TRADE CONCERN AND ORS. & ORS.

Respondent(s)

O R D E R

1. Heard the learned counsel for the appellant and perused the appeal papers.

2. The appellant herein, is before this Court assailing the Order dated 22.03.2012 passed by the District Forum, Unit-1, Kolkata in Case No.6 of 2011, which has subsequently been upheld by the State Consumer Disputes Redressal Commission (for short 'SCDRC') through its order dated 12.02.2013 and later by National Consumer Disputes Redressal Commission (for short 'NCDRC') through its order dated 09.09.2014.

3. The respondents herein, were before the District Forum, Unit-1, Kolkata claiming certain damages in respect of the goods which had been dispatched by ship from Xingang, China to the Kolkata

Port. The respondent no.1 to the complaint namely, Ping An Property Insurance Company of China was the insurer for the same. In the cause title to the complaint, it has been indicated that the said Insurance Company has been carrying on business in India through the appellant herein. It is in that light, in respect of the claim, the description was indicated in the complaint and relief was sought before the District Forum.

4. A perusal of the order passed by the District Forum would indicate that except noticing the contentions as put forth by the complainant before it, and on taking note that respondent no.2 has not filed its version and the respondent no.1, through its version, denied the claim, has ultimately proceeded to pass the order to direct the payment of Rs.1,65,988/- (One lakh Sixty Five Thousand Nine Hundred and Eighty Eight) with interest at 12% per annum and also the compensation of Rs.10,000/- (Rupees Ten Thousand Only) and litigation cost of Rs.5,000/- (Rupees Five Thousand Only). The appellant herein, claiming to be aggrieved by the said order, was before the SCDRC, which has dismissed the appeal and subsequently, the NCDRC has dismissed the

Revision Petition filed before it.

5. The learned counsel for the appellant, while seeking to contend that there could not have been any liability imposed on the appellant, has referred to the document at Annexure P-1 i.e Cargo Transportation Insurance Policy. From the said policy it is seen that Ping An Property & Casualty Insurance Company of China Ltd. has issued a policy. In the said policy, though, the name of the appellant herein, is found, it is shown as the Surveyor. If that be the position, at best, in the event of claim for insurance, if at all the matter is referred to the appellant herein, the appellant was to conduct a survey and submit a report. Therefore, insofar as the claim for the insurance amount, in any event, the liability cannot be fastened on the appellant herein. Therefore, all the three forums i.e District Forum, SCDRC and NCDRC have failed to take note of the said aspect and merely going by the description, as made in the cause title to the complaint by the complainant, the appellant herein has been held liable.

6. However, insofar as the claim, as made against the Insurance Company namely, Ping An Property Insurance Company of China, we express no opinion in

this order while disposing of the instant appeal through this order.

7. However, insofar as the appellant herein, is concerned, we set aside the orders passed by the District Forum, SCDRC and NCDRC as against the appellant and the liability, as fastened on the appellant herein, shall stand set aside.

8. The appeal is accordingly disposed of along with the pending application(s), if any.

.....J.  
(A.S. BOPANNA)

.....J.  
(PRASHANT KUMAR MISHRA)

New Delhi  
17<sup>th</sup> August, 2023

ITEM NO.107

COURT NO.4

SECTION XVII-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

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Date : 17-08-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s)      Mr. Siddharth Dias, Adv.  
                                 Ms. Madhurima, Adv.  
                                 Mr. Puneet Sharma, AOR

For Respondent(s)

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

"The orders passed by the District Forum,  
SCDRC and NCDRC as against the appellant and the  
liability, as fastened on the appellant herein,  
shall stand set aside."

The appeal is accordingly disposed of along with the  
pending application(s), if any, in terms of the signed order.

(NISHA KHULBEY)  
SENIOR PERSONAL ASSISTANT

(signed order is placed on the file)

(DIPTI KHURANA)  
ASSISTANT REGISTRAR