

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 1867 of 2020**  
**(Arising out of SLP(C) No 7075 of 2019)**

**Prabha Tyagi**

**... Appellant(s)**

**Versus**

**National Insurance Co Ltd**

**...Respondent(s)**

**ORDER**

1 Leave granted.

2 This appeal arises from a judgment of the National Consumer Disputes Redressal Commission<sup>1</sup> dated 18 September 2018.

3 On 12 June 2005, the spouse of the appellant obtained an insurance cover for a motor vehicle, which he owned, which was valid up to 11 June 2006. The limits of liability which were specified in the policy were as follows:

1 “NCDRC”

“Limits of Liability

Under Section 11-1(i) of the policy – Death of or bodily injury. Such amount as is necessary to meet there requirements of the Motor Vehicle Act, 1988. Under Section 11-1(ii) of the policy damage to third party property is Rs 7.5 lakhs P.A. Cover under Section III for Owner-Driver is Rs. 2.0 lakhs.”

4 The spouse of the appellant met with an accident on 15 July 2005 and died as a consequence of the accident. The surveyor appointed by the insurer assessed the damage to the vehicle on a total loss basis to the extent of Rs 1,47,550 by deducting the salvage value of Rs 1,17,000. Since the insurance claim was not entertained by the respondent, the appellant filed a consumer dispute before the District Consumer Disputes Redressal Forum, Haridwar<sup>2</sup>. The respondent made the following averment in the written statement:

“18 That Vehicle No UA-08E-1020 is insured with answering O.P. Vide Policy No. 9132385 having validity from 12.6.2005 to as package policy in the name of Mr. Kuldeep Tyagi as insured covering additional P.A. Cover upto Rs.1,00,000/- for four persons.”

5 The District Forum allowed the complaint by an order dated 20 September 2010 and directed the respondent to pay an amount of Rs 1,00,000 towards the personal accident cover and Rs 1,47,050 towards the cover in respect of the vehicle.

6 The appellant addressed a query under the Right to Information Act 2005 to the Chief Public Information Officer of the respondent on 4 October 2010. In response to the query, the respondent informed the

appellant on 2 November 2010 that a compulsory personal accident cover would be in the value of Rs 2,00,000, if premium had been charged.

7 The appellant filed another complaint before the District Forum claiming the additional amount of Rs 1,00,000 apart from other claims. The District Forum, by its order dated 8 July 2013, held that the appellant shall be entitled to an additional amount of Rs 1,00,000 towards the personal accident cover, in addition to an amount of Rs 1,17,000 towards the estimated salvage value, as assessed by the surveyor and Rs 83,000 towards interest and compensation. A total amount of Rs 3,00,000 was awarded. Aggrieved by the order of the District Forum, the respondent preferred an appeal before the State Consumer Disputes Redressal Commission<sup>3</sup>. The SCDRC, by its order dated 7 December 2016, reversed the judgment of the District Forum on the ground that the second complaint was not maintainable having regard to the provisions of Order II Rule 2 of the Code of Civil Procedure 1908<sup>4</sup>. The appellant preferred a revision before the NCDRC against the order of the SCDRC. The NCDRC, by its order dated 18 September 2018, dismissed the appeal.

9 From the narration of facts, it has emerged before this Court that the respondent, in its written statement before the District forum, expressly represented that the personal accident cover was in the amount of Rs 1,00,000. This was admittedly incorrect. The personal accident cover was

3 “SCDRC”

4 “CPC”

in the amount of Rs 2,00,000. In awarding the claim to the extent of Rs 1,00,000 for personal accident cover, the District Forum would have proceeded on the basis of a solemn statement which was made by the insurer on affidavit. It is now not in dispute that the statement which was made before the District Forum was incorrect. The insurance policy, a copy of which has been placed on record, clearly indicates that the personal accident cover was in the amount of Rs 2,00,000 in respect of the owner-driver. We are of the view that the SCDRC and the NCDRC adopted an unduly technical view of the matter by holding the complaint to be barred by Order II Rule 2 CPC. One course of action which was open to the appellant was to apply before the District Forum for recall of the earlier order and for reconsideration of the entire claim afresh. The Consumer Protection Act 1986 is a social welfare legislation. Hence, we are of the view that injustice was correctly rectified by the District Forum in the second round. This is particularly in view of the fact that it was an error on the part of the insurer which led to the award of a lesser amount in the first round. We are, however, of the view that there is no justification for the award of any claim in excess of Rs 1,00,000 which is the balance due in respect of the personal accident cover.

10 We accordingly allow the appeal and direct that the appellant shall be paid an additional sum of Rs 1,00,000 over and above what has been paid by the respondent, together with interest at the rate of 9% per annum with effect from the date of the filing of the first claim, namely, 25 February 2010. The aforesaid payment shall be made within a period of six weeks

from the date of receipt of a certified copy of this order. The appellant shall be paid costs which are quantified at Rs 25,000.

.....J.

[Dr Dhananjaya Y Chandrachud]

.....J.

[Sanjiv Khanna]

New Delhi;  
February 28, 2020

ITEM NO.51

COURT NO.8

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

Petition(s) for Special Leave to Appeal (C) No(s).7075/2019

(Arising out of impugned final judgment and order dated 18-09-2018 in RP No. 568/2017 passed by the National Consumer Disputes Redressal Commission, New Delhi)

PRABHA TYAGI

Petitioner(s)

VERSUS

NATIONAL INSURANCE CO. LTD.

Respondent(s)

(WITH IA No. 35894/2019 - EXEMPTION FROM FILING O.T.)

Date : 28-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Aditya Kumar, Adv.  
Mr. Shovan Mishra, AOR

For Respondent(s) Mr. Pramod K. Singh, Adv.  
Mr. Sadashiv, AOR

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.  
The appellant shall be paid costs which are quantified at  
Rs 25,000.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)  
AR-CUM-PS

(SAROJ KUMARI GAUR)  
COURT MASTER

(Signed order is placed on the file)