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Case Analysis of Shree Ambica Medical Stores v. The Surat's People Co-Operative Bank Ltd (2020)

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ABSTRACT

There have been numerous cases in the courts which deal with the issue of insurance scheme and policies. In most of the cases the problem is with regards to the terms and conditions of the agreement, as the aggrieved party claims that the insurance companies defrauded them by not laying down the conditions in an explicit manner. Though it can be argued that the insurance companies are at fault, and they should be held liable to compensate, but again an important question arises that should the party opting for the insurance policy be discharged from all the liabilities? A similar type of case appeared before the supreme court of India in the year 2020 where the courts had to decide that whether the insurance companies were liable to pay as per the terms and conditions laid down in the agreement. This case analysis will deal with some important issues pertaining to compensation, liability etc. of the insurance company towards the insured.

Keywords: *Compensation, Insurance, STFI Perils, Unfair Trade Practices.*

I. INTRODUCTION

It is often seen that there are issues pertaining to insurance schemes and policies. Since the inception of various insurance companies and agents there have been numerous benefits to various organisations and businessman as their businesses tend to be secured. In today's time the number of insurance companies and agents have increased due to the fact that most people prefer to get their businesses insured due to uncertainty of risk. Though there has been an increase in the number of insurance policies and schemes, there are instances when the people who apply for the insurance policies often neglect reading the whole document which results into conflicts with the insurance companies later.

The same had happened in this case of **Shree Ambica Medical Stores & Ors v. The Surat's People of Co-Operative Bank Ltd & Ors (2020)**² wherein the appellants who were the

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² Shree Ambica Medical Stores v. The Surat's People Co-operative Bank Ltd, (2020) 13 SCC 564 (India).

insured filed a suit against the Bank who were the agents of the insurance companies for unfair trade practices.

II. FACTS OF THE CASE

The appellants and the first respondents entered into an agreement under the cash credit facility. Under the agreement the appellants were required to insure the goods which were hypothecated to the bank. The first respondent who were the corporate agent to the insurer received first insurance claim policy of 60 lakhs from the insurer in the year 1998-99. It contained the address of the location where the goods of the appellants were stored. This policy continued until 2001. But in the period of 2001-02 the insurance cover policy was enhanced to 85 lakhs and an extra of 25 lakhs was charged for a scheme of “STFI Perils” under which the goods are insured in case of storm, tornado, flood, and inundation. However, there were some changes with respect to 2005-06 policy. On 7th August 2006, the city of Surat was hit by floods and the goods stored in the warehouse were damaged. The appellant claimed for a loss of around 80 lakhs, to which the insurer sent an agent of verification and accepted the claim of Rs 23 lakhs under the insurance cover of 25 lakhs but rejected the entire claim under the insurance cover of Rs 60 lakhs. The appellant filed a suit before the state commission, and it ruled in favour of the appellants however the judgement of the state commission was challenged before the National Commission.

III. ISSUES OF THE CASE

1. Will Shree Ambica Medical Stores be entitled to receive compensation under the insurance policy cover of Rs 60 lakhs?
2. Can, The Surat’s People Co-Operative Bank Ltd who were the first respondents be held liable for any unfair trade practices?
3. Can the Insurance company who were the third respondents be held liable for rejecting the entire claim under the policy cover of Rs 60 lakhs?

IV. PETITIONER’S ARGUMENT

Mr Mehul Shah, the learned counsel on the behalf of the appellants laid down certain points. He argued that on the basis of clause 3(2) and 4(1) of the notification issued by Insurance regulatory and development authority 2002, the following can be laid down:

- An insurer must provide all the material information about a proposed cover to the insured so that he or she can decide which suits them according to their interests.

- Except in cases of Marine Insurance, it is the duty of the insurer to furnish the copy of proposal form within the time period of 30 days.

The learned counsel argued that the insurer did not convey about the exclusion of STFI perils at the time of renewal of policy in the years 2005-06 and 2006-07. The form was neither submitted to the bank nor to the insured.

Moreover, the counsel argued that the form which indicated about the risk had mentioned the date of commencement as 3rd August 2005 and not 2nd August 2006 and hence the policy starting on 1st August 2005 was signed by the bank which happened to be the corporate agent of the insurer and the form was not signed by the appellant and therefore, they did not have the knowledge about the same.

The Counsel also held that the refund of Rs 992 was done without any prior written notice for the exclusion of STFI Perils. The policies of the year 2005-06 and 2006-07 were mere renewal of the policies and it was not a completely new agreement, hence it was not under the discretion of the insurer to exclude STFI Perils from the insurance cover.

V. RESPONDENT'S ARGUMENT

1. Learned Counsel appearing on the behalf on the bank which were the first respondent argued that under the terms of hypothecation agreement it was the duty of the appellants to collect the insurance cover as borrowers.

Moreover, it also argued that there was no deficiency from the employees of the bank as they had specifically denied mentioning incorrect or different address in the proposal form. The Counsel also held that the bank had unambiguously presented the copy of the policy form to the insured hence the appellants cannot argue that it was not under their knowledge.

2. The Counsel on behalf of the insurer who are the 3rd Respondent argued that, though bank had remitted the insurance premium, the insurer had returned the premium of Rs 992 covering the STFI Perils to the appellants bank account. As it was a commercial decision, the insurer could exclude the STFI Perils from the Insurance cover of Rs 60 lakhs and hence they cannot be held liable for the same.

VI. JUDGEMENT

The judgement was decided on 28th January 2020, where the honourable Judge Dr D.Y Chandrachud delivered the following Verdict:

1. In the present case, the insurance cover for the year 2004-05 had a different location

with that of the insurance cover of 2005-06. With Regards to this it was right for the insurer to proceed with the fact that the policy cover of 2005-06 was a fresh new policy scheme which excluded STFI Perils from the cover of 60 lakhs.

2. According to Section 64(VB) of the Insurance Act 1938, there is no risk assumed by the insurer unless the premium payable is received in advance. Also, according to Sub Section (3) of Section 64(VB), provides for the refund of the premium amount to the insured in case of cancellation and alternation of the terms of policy.

3. Applying the above legal principles in this case, the insurer refunded the premium containing STFI Perils to the account of the insured hence the proposal did not bind into a contract. The insured when the loss occurred was covered under the policy cover which excluded STFI Perils, hence insurer is not liable.

4. The Court also held that the appellants did not deny the fact that they were furnished the copy of the policy and that the amount was refunded to their bank account. This being the situation it cannot be held that the appellants had no knowledge of STFI Perils being excluded from the policy cover.

5. The appellants had the knowledge of exclusion of STFI perils, still there was no protest from the appellants neither did they convey anything to the bank regarding this issue, hence it can be held that the insured had the knowledge of the exclusion but there was no objection from their side.

6. The appeal stands dismissed with no order costs.

VII. JUDGEMENT ANALYSIS

The verdict was announced by a 2-judge bench consisting of Dr D.Y Chandrachud and judge Ajay Rastogi. This judgement turned out in favour of the respondents as the appellants in this case were not able to justify their stance in claiming that they were entitled to receive claim under the policy cover of Rs 60 lakhs.

According to me the judge was correct in delivering its verdict in the favour of the respondents, as in this case the Bank who were the first respondents did not create any omission on their part as they had completed all the requisite formalities which they were obligated to fulfil. In addition to this they had presented the copy of policy form to the appellants which excluded STFI Perils.

The judge was correct in interpreting the terms of the contract as it clearly stated in the policy of 2005-06, "Warranted that STFI is excluded from the Risk", these words clearly indicate that the insurance company had unambiguously mentioned that the insurance policy wont cover

STFI Perils, and according to law it is the duty of the court to announce the verdict on the words of the agreement which have been existing and are not allowed to frame new agreement between the parties barring some exceptional cases, this was ruled in the case of *General Assurance Society Limited v. Chandumull Jain* (1966).³

The judge rightly pointed out that it was the duty of the appellant to approach the bank or the insurer with their concerns and the reason for the exclusion of STFI Perils from the policy, thus proving that the judgement was delivered keeping in mind all the legal frameworks.

VIII. CONCLUSION

The case of *Shree Ambica Medical Stores v. The Surat's People Co-Operative Bank Ltd*, can be regarded as a judgement which can act as an eye opener for the individuals who decide to take an insurance policy. It indeed becomes very important for any insured to carefully look after all the terms and conditions that are mentioned in the insurance policy. In addition to this it also becomes crucial for any insurance company to take an initiative for the well being of its customers.

In modern times when every individual is moving towards the path of progress it is essential for an individual to know about all the rules and regulations for any policy which they decide to opt for. A person who chooses to apply for an insurance policy expects that during any unforeseen circumstances and risks they can be secured, but it is also essential for the individual to enquire each and every minute detail about the policy cover which they have opted so that it does not become troublesome in later times.

Lastly, in my opinion this case can be set as a benchmark for the people to ensure that they do not get deceived by any insurance policies and schemes and instead it should be an obligation of every individual to go through the terms and conditions of the policy thoroughly without any negligence so that the premium which is paid every year truly becomes useful in tough times.

³ *General Assurance Society Limited v. Chandumull Jain*, (1966) 3 SCR 500.