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(2023-4)212 PLR 118 (SC) , 2023 Scej 437, SupremeCourtOnline 448604

SUPREME COURT OF INDIA

Before:- Justice Hrishikesh Roy and Justice Sanjay Karol, JJ.

New India Assurance Co. Ltd. & Ors. – Appellants

Versus

M/s. Mudit Roadways – Respondents

Civil Appeal No. 339 of 2023.

24.11.2023.

Insurance - In the realm of risk and uncertainty, individuals and organisations seek solace in the bastion of insurance - a covenant forged on the bedrock of trust. Trust serves as the cornerstone, forming the essence of the insurer-insured relationship. The fundamental principle is that insurance is governed by the doctrine of uberrimae fidei - there must be complete good faith on the part of the insured.^[9*] The heart & soul of an insurance [contract](#) lies in the protection it accords to those who wish to be insured by it. This understanding encapsulates the foundational belief that insurance accords protection & indemnification, preserving the sanctity of trust within its clauses. Effectively, the insurer assumes a fiduciary duty to act in good faith and honour their commitment. This responsibility becomes particularly pronounced when the insured, in their actions, have not been negligent. In light of the vital role that trust plays in insurance contracts, it is important to ensure that the insurer adequately fulfils the duty that has been cast on it, by virtue of such a covenant - Consumer Protection Act, 1986 - Insurance Act, 1938 Section 64(UM)(4). [Para 57]

Insurance - Surveyor's report - The surveyor's report cannot be considered a sacred document and contrary evidence, including an investigation report, is subject to rebuttal - Extent to which the report is binding and under what conditions can it be overridden - The key question is whether the investigation report is indispensable, or if the survey report alone is sufficient, to determine the cause of the fire - Surveyor's report, although comprehensive otherwise, is inconclusive on the aspect identifying the actual cause of fire - Given that the surveyor's report only relies on the Forensic Examiners findings, it would be unsafe in this Court's opinion to rely on the said report - Insurance Act, 1938, Section 64(UM)(4). [Para 45]

Held, Multiple survey reports suggesting different causes of fire present a perplexing conundrum on the insurance claim – The reports provided by the insurer, though submitted with intent, were found to be inconclusive and also contradictory – The reports furnished by the claimant, which include assessments by government departments and two independent surveyors, have however consistently identified the cause of the fire as a short-circuit – While it is difficult to go by the reports relied upon by the insurance company, the reports furnished by the claimants being consistent and logical are more acceptable in ascertaining the true cause of the fire. [Para 48]

Insurance - Survey report - Multiple survey reports suggesting different causes of fire present a perplexing conundrum on the insurance claim - The reports provided by the insurer, though submitted with intent, were found to be inconclusive and also contradictory - The reports furnished by the claimant, which include assessments by government departments and two independent surveyors, have however consistently identified the cause of the fire as a short-circuit - While it is difficult to go by the reports relied upon by the insurance company, the reports furnished by the claimants being consistent and logical are more acceptable in ascertaining the true cause of the fire. [Para 48]

Customs Act, 1962 Sections 12 and 46

Cases Referred :-

1. *Canara Bank v. United India Insurance Company* (2020) 3 SCC 455.
2. *Galada Power & Telecommunication Ltd. v. United India Insurance Co. Ltd.*, (2016) 14 SCC 161: (2017) 2 SCC (Civ) 765].
3. *JSK Industries Pvt. Ltd. v. Oriental Insurance Co. Ltd.* 2022 SCC OnLine 1451.
4. *Khatema Fibres Ltd. v. New India Assurance Co. Ltd.* 2021 SCC OnLine SC 818.
5. *New India Assurance Co. Ltd. v. Pradeep Kumar* (2009) 7 SCC 787.
6. *Saurashtra Chemicals Ltd. v. National Insurance Co. Ltd.* (2019) 19 SCC 70.

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