

UNITED INDIA INSURANCE

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v.

AJMER SINGH COTTON AND GENERAL MILLS AND ORS. ETC.

AUGUST 12, 1999

[S. SAGHIR AHMAD AND R.P. SETHI, JJ.]

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*Consumer Protection Act, 1986—Section 14—Deficiency in service—Claim by the insured—Mere execution of discharge voucher and acceptance of insurance claim—Tenable only if insured proves that discharge voucher was obtained by fraud or coercion—Held, insured estopped from making any further claim from insurer after accepting full settlement of the claim by executing the discharge voucher.*

C

*Award of interest—Grant of—Tribunal/Commission can grant appropriate relief when proved that discharge voucher was obtained by fraud or coercion—Held, delay in settlement of claim under policy cannot be ground for Commission to grant interest when it is not pleaded at the time of acceptance of the insurance amount.*

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*Liability of Insurance Companies—Issuance of discharge voucher by insured—Forums have powers to fasten liability against insurance company—But cannot fasten liability against the insurance companies over and above the liabilities payable under contract of insurance.*

E

**Respondent No. 1 procured two insurance policies and two insurance covers to the extent of Rs. 1,00,000 respectively from the appellant and insurance cover of Rs. 27 lakhs from respondents Nos. 2 to 4. Subsequently, respondent No. 1 suffered losses due to fire. On the basis of the report of the surveyors, he was paid the insurance amount under the policy. The insurance claim amount was accepted in full and final settlement of all claims by executing the discharge vouchers willingly and voluntarily. Thereafter, respondent No. 1 filed a complaint before the State Commission claiming *inter-alia* interest at the rate of 18 per cent per annum against the appellant. The State Commission dismissed the claims. The National Commission accepted the claims of respondent No.1 and directed the appellant to pay interest at the rate of 18 per cent. Hence, these appeals by the appellant.**

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**A** Allowing these appeals, this Court

**B** HELD 1.1. The mere execution of the discharge voucher by insured in respect of claim raised under insurance policy and acceptance of the insurance claim would not estop the insured from making further claim from the insurer but only if it is proved that discharge voucher was obtained by fraud or coercion. [388-F]

**C** 1.2. The execution of the discharge voucher would not always deprive the consumer from preferring claim with respect to the deficiency in service or consequential benefits arising out of the amount paid in default of the service rendered. Despite execution of the discharge voucher, if the consumer is in a position to satisfy the Tribunal or the Commission under the Act that such discharge voucher or receipt had been obtained from him under the circumstances which can be termed as fraudulent or exercise of undue influence or by mis-representation or the like, the authority before whom the complaint is made would be justified in granting the appropriate relief.  
**D** [388-C-D-E]

*Jivajeerao-Cotton Mills Ltd. v. New India Assurance Co. Ltd.*, (Original Petition No. 52 of 1991 decided on November 28, 1991), relied on.

**E** 2. The Consumer Disputes Redressal Forums and Commission constituted under the Act shall have the power to fasten liability against the insurance companies notwithstanding the issuance of the discharge voucher. Such a claim cannot be termed to be fastening the liability against the insurance companies over and above the liabilities payable under the contract of insurance envisaged in the policy of insurance. [388-F-G]

**F** 3. The discharge vouchers were admittedly executed voluntarily and the complainants had not alleged their execution under fraud, undue influence, mis-representation or the like. In the absence of pleadings and evidence the State Commission was justified in dismissing their complaints. The National Commission granted relief on the ground of delay in the settlement of claim  
**G** under the policies. Mere delay of a couple of months would not have authorised the National Commission to grant relief particularly when the insurer had not complained of such a delay at the time of acceptance of the insurance amount under the policy. [389-A-B]

**H** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 535 of 1994  
Etc.



- A** Commission accepted the appeal of the respondent No.1 and directed the appellant to pay the interest at the rate of 18 per cent.

The facts in Civil Appeal No. 534 of 1994 are almost identical for determining the controversy and deciding the question of law noted hereinabove.

**B**

We have heard learned counsel for the parties and perused the record. It is true that the award of interest is not specifically authorised under the Consumer Protection Act, 1986 (hereinafter called 'the Act') but in view of our judgment in *Sovintorg (India) Ltd. v. State Bank of India* (Civil Appeal

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No. 823 of 1992) decided on 11th August, 1999, we are of the opinion that in appropriate cases the Forum and the Commissions under the Act are authorised to grant reasonable interest under the facts and circumstances of each case. The mere execution of the discharge voucher would not always deprive the consumer from preferring claim with respect to the deficiency in service or consequential benefits arising out of the amount paid in default of

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the service rendered. Despite execution of the discharge voucher, the consumer may be in a position to satisfy the Tribunal or the Commission under the Act that such discharge voucher or receipt had been obtained from him under the circumstances which can be termed as fraudulent or exercise of undue influence or by mis-representation or the like. If in a given case the consumer satisfies

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the authority under the Act that the discharge voucher was obtained by fraud, mis-representation, undue influence or the like, coercive bargaining compelled by circumstances, the authority before whom the complaint is made would be justified in granting appropriate relief. However, where such discharge voucher is proved to have been obtained under any of the suspicious circumstances noted hereinabove, the Tribunal or the Commission would be

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justified in granting the appropriate relief under the circumstances of each case. The mere execution of the discharge voucher and acceptance of the insurance claim would not estop the insured from making further claim from the insurer but only under the circumstances as noticed earlier. The Consumer Disputes Redressal Forums and Commissions constituted under the Act shall

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also have the power to fasten liability against the insurance companies notwithstanding the issuance of the discharge voucher. Such a claim cannot be termed to be fastening the liability against the insurance companies over and above the liabilities payable under the contract of insurance envisaged in the policy of insurance. The claim preferred regarding the deficiency of service shall be deemed to be based upon the insurance policy, being covered

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by the provisions of Section 14 of the Act.

In the instant cases the discharge vouchers were admittedly executed voluntarily and the complainants had not alleged their execution under fraud, undue influence, mis-representation or the like. In the absence of pleadings and evidence the State Commission was justified in dismissing their complaints. The National Commission however granted relief solely on the ground of delay in the settlement of claim under the policies. The mere delay of a couple of months would not have authorised the National Commission to grant relief particularly when the insurer had not complained of such a delay at the time of acceptance of the insurance amount under the policy. We are not satisfied with the reasoning of the National Commission and are of the view that the State Commission was justified in dismissing the complaints though on different reasonings. The observations of the State Commission in *Jivajeerao Cotton Mills Ltd. v. New India Assurance Co. Ltd.* (Original Petition No. 52 of 1991 decided on November 28, 1991) shall always be construed in the light of our findings in this judgment and the mere receipt of the amount without any protest would not always debar the claimant from filing the complaint.

Under the circumstances the appeals are allowed. The orders of the National Commission are set aside by confirming the orders passed by the State Commission. The complaint of the respondents shall stand dismissed without any order as to costs.

N.J.

Appeals allowed.