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2026 INSC 1276

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9051 OF 2026
(Arising out of Special Leave Petition (Civil) No. 8930 of 2020)

RAMSAKHI GUPTA ...APPELLANT(S)

VERSUS

ICICI LOMBARD GENERAL INSURANCE CO. LTD. & ANR. ....RESPONDENT(S)

J U D G M E N T

UJJAL BHUYAN, J.

This appeal by special leave is directed against the final order dated 24.02.2020 passed by the National Consumer Disputes Redressal Commission, New Delhi ('National Commission' hereinafter) allowing First Appeal No. 479 of 2011 filed by the respondents.

2. Be it stated that appellant as the complainant had instituted Consumer Complaint No. 16 of 2007 before the

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Madhya Pradesh State Consumer Disputes Redressal Commission, Bhopal (for short, 'the State Commission' hereinafter) seeking compensation towards damage of stored agricultural produce and the warehouse building, with interest. By order dated 22.07.2011, the State Commission allowed the complaint of the appellant by holding that complainant (appellant herein) is entitled to recover Rs. 36,83,955.00 towards the grains damaged in the warehouse and Rs. 6,41,268.00 for damage to the warehouse. In all, the complainant (appellant herein) is entitled to recover Rs. 43,25,223.00 alongwith interest at the rate of 8% per annum from the date of filing of the complaint.

3. The aforesaid order of the State Commission dated 22.07.2011 was assailed by the respondents before the National Commission in First Appeal No. 479 of 2011. By the impugned order dated 24.02.2020, the National Commission relied upon the exclusion clause of the insurance policy and came to the conclusion that the stock kept in the warehouse did not belong to the appellant. Those belonged to third-parties and were goods held in trust by the appellant. The insurance coverage of the appellant did not extend to the goods which were held in trust.

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For the aforesaid reason, the order of the State Commission dated 22.07.2011 was set aside and the claim of the appellant was restricted to Rs. 1,44,401.00 towards damage to the warehouse. Respondents were directed to pay the aforesaid amount to the appellant alongwith interest on that amount at the rate of 9% per annum w.e.f. six months from the submission of the claim till the date of actual payment.

4. It is this order which is under impugnment in the present appeal.

5. This Court by order dated 20.08.2020 had issued notice.

6. In the proceedings held on 19.04.2021, on an interlocutory application filed by the appellant, a statement was made on behalf of the respondents that since this Court had issued notice on the special leave petition, respondents would not press for withdrawal/refund of the amount which was released to the appellant during the pendency of the proceedings before the National Commission. Thereafter, leave was granted on 15.07.2026.

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Facts

7. Relevant facts may be briefly noted.

8. Appellant is the proprietor of M/s Nikhra Warehouse situated at Dabra in the district of Gwalior, Madhya Pradesh. The warehouse was used to store agricultural produce of farmers for which consideration was charged and paid. The agricultural produce stored was hypothecated with the State Bank of India, Dabra (SBI). For such hypothecation, it was mandatory for the appellant to insure the stock of agricultural produce stored in the warehouse. To insure the warehouse building as well as the stock lying therein, appellant obtained from the respondents Insurance Policy No. 1001/0066099 for the period from 13.12.2006 to 12.04.2007 for a sum of Rs. 50,00,000.00 covering the warehouse building and for a further sum of Rs. 1,50,00,000.00 in respect of the stock lying in the warehouse. Appellant had obtained another insurance policy of equivalent amount for burglary.

9. On 13.03.2007, at about 05:00 pm, Dabra and its adjoining areas experienced a severe hailstorm followed by

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heavy rainfall. Because of the hailstorm, the asbestos sheet roofing of the warehouse suffered extensive damage resulting in rainwater seeping into the warehouse premises. Not only the roofing was damaged extensively, but a part of the agricultural produce stored in the warehouse got damaged by the rainwater. As per the stock register maintained by the warehouse, agricultural produce valued at Rs. 1,50,00,000.00 were stored in the warehouse at the time of the incident. Appellant engaged the services of a valuer M.L. Gupta who quantified the loss to the agricultural produce at Rs. 36,83,955.00 and the damage to the warehouse building at Rs. 6,41,268.00.

10. The incident was reported to the respondents who appointed M/s Cunningham Lindsey International Pvt. Ltd. as the surveyor to assess the damage.

11. Appellant also brought the matter to the notice of the local revenue authorities. The Tehsildar assessed the loss caused to the agricultural produce at Rs. 36,83,955.00 and the damage to the warehouse building at Rs. 6,41,268.00.

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12. M/s Cunningham Lindsey International Pvt. Ltd. submitted its final survey report on 16.07.2007. The surveyor acknowledged the damage suffered *qua* the warehouse building and estimated the loss at Rs. 1,44,401.00. In so far the agricultural produce stored in the warehouse were concerned, the surveyor opined that the same belonged to third-parties and were held by the appellant in trust. Therefore, the agricultural produce which suffered damage were not covered under the insurance policy in view of the General Exclusion Clause 5.

13. At that stage, appellant instituted Consumer Complaint No. 16 of 2007 before the State Commission seeking total compensation of Rs. 50,45,223.00 with interest. The complaint was resisted by the respondents who took the stand that the agricultural produce stored in the warehouse and which suffered damage were held in trust by the appellant as those belonged to third-parties. As per the exclusion clause, insurance claim did not cover the said damaged agricultural stock.

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14. Upon consideration of the pleadings and other material on record, the State Commission framed the following issues:

i. whether the complainant was entitled to be compensated for the loss suffered in the warehouse?

ii. whether there was loss of goods in the warehouse and, if so, whether the complainant was not entitled to any compensation as those goods were held in trust?

15. On the first issue, the State Commission held that the damage caused to the warehouse building stood established and assessed the loss at Rs. 6,41,268.00. Accordingly, the State Commission held that the appellant was entitled to compensation to that extent.

16. In so far the second issue is concerned, the State Commission considered the claim in respect of the agricultural produce stored in the warehouse. It took note of the assessment made by the Tehsildar quantifying the loss at Rs. 36,83,955.00 as well as the stock register maintained for the SBI. The contention of the respondents that the goods were held in trust and were not covered by the insurance policy in the absence of

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payment of a special premium was not accepted. The State Commission noted that two insurance policies were obtained by the appellant from the respondents: one policy for Rs. 1,50,00,000.00 for burglary covering all the stock and another policy for the warehouse building and stocks for Rs. 1,50,00,000.00 (*sic*). The two insurance policies were not obtained in the abstract which indicated the insurer's awareness of the nature of the property sought to be insured, further observing that issuance of the two policies indicated that the insurance arrangement extended to the warehouse and to the stock therein. The State Commission held that the appellant had an insurable interest in the agricultural produce stored in the warehouse and that the loss sustained was recoverable under the insurance policy. Consequently, the State Commission allowed the complaint and directed the respondents to pay Rs. 36,83,955.00 towards the damaged agricultural produce and Rs. 6,41,268.00 for the damage to the warehouse building, total compensation being Rs. 43,25,223.00 with interest at the rate of 8% per annum from the date of filing of the complaint *vide* the order dated 22.07.2011.

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17. As noticed supra, respondents assailed the order dated 22.07.2011 before the National Commission in First Appeal No. 479 of 2011.

18. By the impugned order dated 24.02.2020, the National Commission allowed the appeal of the respondents and set aside the order passed by the State Commission. In so far the damage to the warehouse building was concerned, National Commission relied upon the assessment made by M/s Cunningham Lindsey International Pvt. Ltd., the surveyor appointed by the insurer, who assessed the gross damage at Rs. 2,12,533.00. After making certain deductions, the surveyor arrived at the figure of Rs. 1,44,401.00 which was accepted by the National Commission. As regards damaged stock was concerned, National Commission took the view that the stock stored in the warehouse belonged to third-parties and were thus 'goods held in trust' as explained in the General Exclusion Clause 5 of the insurance policy. National Commission also held that no additional premium was paid for insurance coverage of the 'goods held in trust' and came to the conclusion that the damage caused to the stored goods was not covered under the

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insurance policy. The second claim was accordingly rejected. While setting aside the order of the State Commission, National Commission directed the respondents to pay to the appellant a sum of Rs. 1,44,401.00 alongwith interest on that amount at the rate of 9% per annum w.e.f. six months after submission of the claim till the date of actual payment.

Submissions

19. Mr. Navin Pahwa, learned senior counsel appearing for the appellant submits that the National Commission committed a manifest error in rejecting the claim of the appellant towards damage caused to the agricultural produce stored in the warehouse by placing reliance on General Exclusion Clause 5 of the Standard Fire and Special Perils Policy. He submits that National Commission failed to appreciate the insurance policy as a whole and proceeded on the erroneous assumption that since the agricultural produce stored in the warehouse belonged to third-party farmers, the same automatically fell within the expression 'goods held in trust'. According to him, such an interpretation defeats the very purpose for which the insurance policy was obtained.

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19.1. Mr. Pahwa submits that the National Commission ought to have considered that the stock (agricultural produce) stored in the warehouse of the appellant were owned by farmers and agriculturists. Those were hypothecated with the SBI. It was mandatory for the appellant to insure the stock of agricultural produce stored in the warehouse. It is evident that the relationship between the appellant and the owners of the agricultural produce was that of a bailor and bailee arising out of contractual bailment. Certainly, it was not one of trustee and beneficiary. The farmers had agreed to pay a valuable consideration to the appellant for providing space to store the agricultural produce in the warehouse. Therefore, the stock of goods were not held in trust *per se* but the goods were held by the appellant as bailee for a consideration. Merely because the goods belonged to third parties, it could not be presumed that such goods were 'held in trust' or 'on commission' within the meaning of General Exclusion Clause 5.

19.2. Learned senior counsel for the appellant asserts that there may be *inter-se* rights and obligations between the owners of the goods and the appellant (being owner of the warehouse);

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however, such a contractual arrangement cannot be equated with a trust so as to attract the exclusion clause contained in the policy.

19.3. Learned senior counsel submits that the agricultural produce stored in the warehouse was hypothecated with the SBI. Insurance of such stock was mandatory in terms of the SBI policy. Respondents were fully aware of such hypothecation at the time of issuance of the policy. The insurer therefore cannot deny its liability by taking the plea that the agricultural produce stored in the warehouse belonged to the farmers and not to the appellant.

19.4. It is the contention of the learned senior counsel that National Commission failed to consider the general clauses of the insurance policy including the agreed bank clause. It is an admitted position that the insurance policy clearly showed that the warehouse building was insured for Rs. 50,00,000.00 and the stock in trade stored therein were insured for Rs. 1,50,00,000.00. It is also an admitted position that stock in trade were hypothecated with the SBI which mandatorily required insurance thereof.

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19.5. It is further submitted that the agreed bank clause contemplates payment of insurance proceeds to the financing bank (SBI), further recognizing that such payment may relate to the interest of other parties insured under the policy. He, therefore, submits that once the policy itself recognizes existence of interest of other parties, National Commission could not have mechanically concluded that the policy excluded all goods belonging to third parties.

19.6. Referring to the Standard Fire and Special Perils Policy, learned senior counsel submits that the express inclusion of stock in the said policy demonstrates that the insurance cover was intended to extend to the agricultural produce stored in the warehouse.

19.7. Mr. Pahwa submits that National Commission wrongly rejected the claim of the appellant as assessed by the surveyor M.L. Gupta and endorsed by the Tehsildar. Referring to the survey report submitted by M/s Cunningham Lindsey International Pvt. Ltd., the respondents surveyor, he submits that it specifically recorded that the policy contained the agreed bank clause. Therefore, it is not open to the respondents to now

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contend that the stock in trade stored in the warehouse were not covered under the insurance cover.

19.8. Learned senior counsel submits that the controversy in the present appeal is squarely covered by the decision of this Court in *Canara Bank Vs. United India Insurance Company Limited*[1]. In that case also, a similar agreed bank clause was under consideration. Placing reliance on the said decision, Mr. Pahwa submits that where goods are stored in a warehouse for a consideration, the relationship between the owner of the goods and the warehouse is that of bailor and bailee arising out of a contractual bailment. When the agreed bank clause itself recognizes the existence of interest of 'other parties' and the insurer having issued the policy covering the aforesaid stock being aware of its hypothecation with the SBI, it cannot subsequently turn around and contend that third-party stock was outside the insurance policy. In *Canara Bank*, it has been held that the insurer cannot take advantage of its own failure to ascertain the nature and ownership of the goods before issuing the policy and that the beneficiary of the insurance

[1] (2020) 3 SCC 455

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services are consumers notwithstanding the fact that they may not be parties to the contract of insurance. In terms of the agreed bank clause, as the goods were hypothecated with the SBI, the insurer i.e. the respondents are duty bound to cover the loss of the insured which may relate to interest of other parties.

19.9. Learned senior counsel has also questioned the National Commission's acceptance of the surveyor's assessment in so far the damage to the warehouse building is concerned. While the assessment made by the surveyor of the appellant and of the revenue authorities quantified the loss to the warehouse building at Rs. 6,41,268.00, the National Commission accepted the reduced assessment made by the surveyor appointed by the respondents at Rs. 1,44,401.00 without assigning any cogent reason. He submits that findings and assessment made by the State Commission on the basis of the material available on record ought not to have been disturbed by the National Commission.

19.10. Summing up his submission, learned senior counsel for the appellant contends that the impugned order suffers from

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a fundamental error in interpreting the insurance policy. National Commission interpreted General Exclusion Clause 5 in isolation completely overlooking the agreed bank clause, the nature of the contractual relationship between the appellant and the owners of the agricultural produce, the hypothecation of the stock in trade with SBI, the conduct of the respondents in issuing separate insurance cover for the stock and the law laid down by this Court in *Canara Bank*. He, therefore, submits that impugned order may be set aside and the award passed by the State Commission should be restored.

20. *Per contra*, Mr. Vishnu Mehra, learned senior counsel for the respondents submits that the claim in respect of the stock was rightly rejected by the National Commission in view of General Exclusion Clause 5 of the Standard Fire and Special Perils Policy which expressly excluded 'goods held in trust' or 'on commission'.

20.1. He submits that it is an admitted position that the stock stored in the warehouse belonged to various farmers and not to the appellant. In fact, appellant had himself admitted in the consumer complaint that the goods belonging to the farmers

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were held in trust. Referring to the statement of the warehouse manager, as recorded by the surveyor, learned senior counsel submits that it was also the stand taken by the warehouse manager. Appellant subsequently changed his stand and sought to contend that the relationship between the farmers and the appellant was one of bailor and bailee.

20.2. Elaborating further, Mr. Mehra submits that goods held in trust could have been covered under the insurance policy only upon payment of additional premium contemplated for such coverage. National Commission has rejected the contention of the appellant that he had paid additional premium of Rs. 1500.00. Learned senior counsel submits that the plea of bailor and bailee relationship taken up by the appellant is also inconsistent with the appellant's own contention that additional premium had been paid for covering the goods held in trust.

20.3. Adverting to the decision of this Court in *Canara Bank*, learned senior counsel submits that the said decision is distinguishable on facts. In *Canara Bank*, there was a tripartite arrangement and the policy contained an agreed bank clause

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whereas no such arrangement exist in the present case. The premium and the terms of insurance in *Canara Bank* were materially different from those in the present case. Learned senior counsel further submits that even if the farmers are recorded as beneficiaries or consumers within the meaning of the Consumer Protection Act, 1986, such status by itself would not entitle them to the benefits of the insurance policy contrary to the express terms and conditions of the policy. According to him, the decision in *Canara Bank* does not dispense with the compliance to the terms of the policy or the requirement of payment of additional premium for covering goods held in trust. In support of his submissions, learned senior counsel for the respondents has placed reliance on the following decisions:

i. *Suraj Mal Ram Niwas Oil Mills Pvt. Ltd. Vs. United India Insurance Co. Ltd.*;[2]
ii. *United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal*;[3]
iii. *Polymat India Pvt. Ltd. Vs. National Insurance Co. Ltd.*;[4]

[2] (2010) 10 SCC 567
[3] (2004) 8 SCC 644
[4] (2005) 9 SCC 174

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iv. *Canara Bank;*

v. *Bachhaj Nahar Vs. Nilima Mandal*;[5]

vi. *Khaema Fibres Ltd. Vs. New India Assurance Co. Ltd.*;[6] and

vii. *NIC Vs. Seema Malhotra.*[7]

20.4. With regard to the claim for damage to the warehouse building, learned senior counsel for the respondents submits that the surveyor appointed by the respondents had assessed the loss at Rs. 1,44,401.00 which the respondents had offered to pay to the appellant. National Commission being an expert body and the final fact finding authority has duly considered the material on record and concurred with the assessment of loss as above.

20.5. Finally, learned senior counsel for the respondents submits that the appellant has failed to establish any entitlement to the claim in respect of the stock in view of the express exclusion contained in the policy and the admitted position that the goods belonged to third parties. The decision in *Canara Bank* is clearly distinguishable on facts.

[5] (2008) 17 SCC 491
[6] (2023) 15 SCC 327
[7] (2001) 3 SCC 66

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Impugned order does not warrant any interference. In these circumstances, learned senior counsel for the respondents prays for dismissal of the appeal.

Analysis

21. Submissions made by learned counsel for the parties have received the due consideration of the Court. The judgments cited at the Bar have also been carefully perused and analyzed.

22. There is no dispute as to the facts. It is admitted that there was a hailstorm followed by heavy rains on 13.03.2007 as a result of which the warehouse and the agricultural stock stored therein suffered extensive damage. There is also no dispute as to the holding (existence) of insurance policy by the appellant when the aforesaid occurrence took place. The controversy boils down to applicability of the General Exclusion Clause 5 to the agricultural produce stored in the warehouse, the nature of the relationship between the appellant and the owners of the agricultural produce, and the extent of the loss

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for which indemnification is payable under the insurance policy.

23. Therefore, the question which falls for our consideration is whether the agricultural produce belonging to the farmers and stored in the appellant's warehouse should be taken as 'goods held in trust' or 'on commission' within the meaning of the General Exclusion Clause 5? Or, whether the relationship between the appellant and the owners of such agricultural goods was one of bailor and bailee arising out of a contractual bailment? Corollary to the above question is, whether upon a proper construction of the insurance policy, including the agreed bank clause, the respondents-insurer are liable to indemnify the loss suffered on account of the damage to the stored agricultural produce?

24. Before proceeding further, it would be useful to examine the nature of an insurance contract or how an insurance contract is to be interpreted. In *Vikram Greentech India Limited Vs. New India Assurance Company Limited*[8], a two-

[8] (2009) 5 SCC 599

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Judge Bench of this Court examined the nature of an insurance contract and how its terms are to be interpreted in the following manner:

> **16.** An insurance contract is a species of commercial transactions and must be construed like any other contract to its own terms and by itself. In a contract of insurance, there is requirement of *uberrima fides* i.e. good faith on the part of the insured. Except that, in other respects, there is no difference between a contract of insurance and any other contract.
>
> **17.** The four essentials of a contract of insurance are : (*i*) the definition of the risk, (*ii*) the duration of the risk, (*iii*) the premium, and (*iv*) the amount of insurance. Since upon issuance of the insurance policy, the insurer undertakes to indemnify the loss suffered by the insured on account of the risks covered by the insurance policy, its terms have to be strictly construed to determine the extent of liability of the insurer.

24.1. Thus, what can be deduced from the above is that an insurance contract is a species of commercial transactions. It must be construed like any other contract having regard to its terms and conditions. It is based on *uberrima fides* i.e. good faith on the part of the insured. While the four essentials of an insurance contract are: i) definition of the risk; ii) duration of

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the risk; iii) premium; and iv) amount of insurance, the terms of the insurance policy would have to be strictly construed to determine the extent of liability of the insurer.

24.2. Proceeding further, this Court in *Greentech* opined that the endeavour of the Court should always be to interpret the words in which the contract is expressed by the parties. Referring to earlier decisions of this Court, the Bench held that the Court while construing the terms of a policy is not expected to venture into extra liberalism that may result in re-writing the contract or substituting the terms which were not intended by the parties. The insured cannot claim anything more than what is covered by the insurance policy. This Court held thus:

> **18.** The endeavour of the court must always be to interpret the words in which the contract is expressed by the parties. The court while construing the terms of policy is not expected to venture into extra liberalism that may result in rewriting the contract or substituting the terms which were not intended by the parties. The insured cannot claim anything more than what is covered by the insurance policy.

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25. What follows is that while interpreting an insurance contract, it has to be borne in mind that the rights and obligations of the parties to the said contract i.e. the insurer and the insured would have to be determined from the terms and conditions of the policy itself. The policy has to be read as a whole having regard to the nature of the insurance cover and the purpose for which it was obtained. The task of the court is neither to enlarge the contract by resorting to equitable considerations nor to restrict its meaning by an isolated or excessively literal reading of one or few of its stipulations. The words of the policy must, therefore, be understood in their proper setting so as to give meaningful effect to the contractual undertaking of the parties.

26. The principles governing interpretation of insurance policies were further elucidated in *Canara Bank*. After referring to earlier decisions of this Court, the Bench held as under:

> **22.** The principles relating to interpretation of insurance policies are well settled and not in dispute. At the same time, the provisions of the policy must be read and interpreted in such a manner so as to give effect to the reasonable expectations of all the parties including the

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> insured and the beneficiaries. It is also well settled that coverage provisions should be interpreted broadly and if there is any ambiguity, the same should be resolved in favour of the insured. On the other hand, the exclusion clauses must be read narrowly. The policy and its components must be read as a whole and given a meaning which furthers the expectations of the parties and also the business realities. According to us, the entire policy should be understood and examined in such a manner and when that is done, the interpretation becomes a commercially sensible interpretation.

26.1. Thus, what this decision tells us is that provisions of an insurance policy must be read and interpreted in such a manner so as to give effect to the reasonable expectations of all the parties including the insured and the beneficiaries. Coverage provisions should be interpreted broadly. If there is any ambiguity, the same should be resolved in favour of the insured. In so far an exclusion clause is concerned, it must be read narrowly. The policy and its components must be read as a whole and given a meaning which furthers the expectations of the parties and also the business realities.

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27. This Court in *Shivram Chandra Jagarnath Cold Storage Vs. New India Assurance Company Limited*[9], after referring to earlier decisions of this Court, held that an insurance policy must be construed only with reference to its stipulations and no artificial meaning can be given to the words of the policy. The exceptions to an insurance policy must be construed strictly since they reflect the agreement between the parties with respect to the losses that are covered by the insurance policy. Any departure from this principle is possible only if the terms of the policy are ambiguous or unclear. In the event, two constructions are possible or if there is an ambiguity, a construction that is beneficial to the insured should be adopted consistent with the purpose of the policy. Another instance where exception clauses may be interpreted to the benefit of the insured is when the exception clauses are too wide and not consistent with the main purpose or object of the insurance policy. When the option is between taking a view which will relieve the distress and agony of the victims or their dependents on one hand and the equally plausible view which

[9] (2022) 4 SCC 539

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will reduce the profitability of the insurer in regard to the occupational hazard undertaken by him by way of business activity, there is hardly any choice. The court cannot but opt for the former view. Even if one were to take a strict doctrinaire approach, the very same conclusion would emerge by applying the doctrine of 'reading down' the exclusion clause in the light of the main purpose of the insurance contract so that the exclusion clause does not cross swords with the main purpose. The effort must be to harmonise the two instead of allowing the exclusion clause to snipe successfully at the main purpose.

28. Thus, what can be culled out from the above decision is that while an exclusionary clause should not be disregarded merely because it operates against the insurer, the task is to ascertain the exact scope of the exclusion not only from the language employed in the exclusion clause but from a wholesome reading of the insurance policy itself. The exceptions to an insurance policy has to be construed strictly. Where the language admits of more than one interpretation, the construction which is favourable to the insured should be preferred. It must always be borne

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in mind that an exclusion cannot be applied in a manner which defeats the principal object of the insurance policy.

29. In *Texco Marketing Private Limited Vs. Tata AIG General Insurance Company Limited*[10], a two-Judge Bench of this Court examined as to how an exclusion clause in a contract of insurance has to be interpretated and held as under:

> **12.** An exclusion clause in a contract of insurance has to be interpreted differently. Not only the onus but also the burden lies with the insurer when reliance is made on such a clause. This is for the reason that insurance contracts are special contracts premised on the notion of good faith. It is not a leverage or a safeguard for the insurer, but is meant to be pressed into service on a contingency, being a contract of speculation. An insurance contract by its very nature mandates disclosure of all material facts by both the parties.

29.1. The Bench expressed the view that an exclusion clause in a contract of insurance has to be interpreted differently. If an insurer relies upon an exclusion clause, the burden of establishing that such an exclusionary clause applies to a claim rests upon the insurer. The significance of the aforesaid principle lies in the fact that an insurer cannot escape

[10] (2023) 1 SCC 428

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liability merely by pointing out to the existence of an exclusionary provision and placing reliance thereon. The exclusion must be shown to govern the particular loss for which indemnification is claimed. The responsibility of establishing that the goods fall within the exclusion is on the insurer when it places reliance on such an exclusionary clause, particularly when effect of such exclusion is to deny the insurer the benefit of the insurance coverage.

29.2. *Texco Marketing* also examined the manner in which an exclusionary provision has to be interpreted *vis-à-vis* provisions of the principal contract which the Bench explained in the following manner:

> **13.** An exclusion clause has to be understood on the touchstone of the doctrine of reading down in the light of the underlining object and intendment of the contract. It can never be understood to mean to be in conflict with the main purpose for which the contract is entered. A party, who relies upon it, shall not be the one who committed an act of fraud, coercion or misrepresentation, particularly when the contract along with the exclusion clause is introduced by it. Such a clause has to be understood on the prism of the main contract. The main contract once signed would eclipse the offending

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> exclusion clause when it would otherwise be impossible to execute it. A clause or a term is a limb, which has got no existence outside, as such, it exists and vanishes along with the contract, having no independent life of its own. It has got no ability to destroy its own creator i.e. the main contract. When it is destructive to the main contract, right at its inception, it has to be severed, being a conscious exclusion, though brought either inadvertently or consciously by the party who introduced it. The doctrine of waiver, acquiescence, approbate and reprobate, and estoppel would certainly come into operation as considered by this Court in *Union of India* v. *N. Murugesan*.

30. What emerges from *Texco Marketing* is that an exclusionary provision cannot be isolated from the contract of which it forms a part. Such a clause derives its meaning from the policy and must operate consistently with the object and intendment for which the parties have contracted for. The mere fact that the insurer has incorporated an exclusion does not by itself permit the exclusion to be construed in a manner which defeats the very purpose of the policy. For this reason, the policy as a whole has to be read so as to ensure that there is no conflict between the exclusionary clause and the principal contract. Both must align on the same trajectory.

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31. Let us now turn to the terms of the insurance policy in the present case. The policy in question is the Standard Fire and Special Perils Policy, bearing policy No. 1001/0066099 issued by the respondent-insurer in favour of Nikhra Warehouse. The insurance period commenced on 13.12.2006 and continued till midnight of 12.04.2007. The incident in question took place on 13.03.2007 and, therefore, fell within the insurance period.

32. The insuring clause of the Standard Fire and Special Perils Policy provides for indemnification of the insured in respect of loss or damage to the insured property on the happening of any of the perils specified thereunder during the period of insurance, which includes loss, destruction or damage caused by storm, cyclone, typhoon, flood, inundation etc. The liability of the insurer has to be determined with reference to the insuring clause as well as to the schedule, conditions, exclusions and endorsements forming part of the policy.

33. A perusal of the schedule together with Annexure-B shows that the policy covered both the warehouse building and the stocks stored at the insured premises i.e. the warehouse. The sum insured in respect of the building was Rs. 50,00,000.00 and in

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respect of the stock, it was Rs. 1,50,00,000.00, making the aggregate sum insured at Rs. 2,00,00,000.00. The schedule also refers to the hypothecation details as per Annexure-A and makes the policy subject to clauses FA, FC, FG and FH attached thereto.

34. The National Commission proceeded on the basis that the sum insured in respect of the stock was Rs. 1,00,00,000.00. However, Annexure-B to the policy shows that the sum insured under this head was Rs. 1,50,00,000.00 which figure is also reflected in the counter affidavit filed by the respondents before this Court. Therefore, the sum insured in respect of the stock stored in the warehouse was Rs. 1,50,00,000.00 and not Rs. 1,00,00,000.00.

35. There is another aspect of Annexure-B which needs to be taken note of. It makes a separate mention of 'stocks' and 'goods held in trust'. While 'stocks' are covered for a sum of Rs. 1,50,00,000.00, the sum insured against 'goods held in trust' is shown as nil. It is clear that the two expressions 'stocks' and 'goods held in trust' have thus been separately dealt with in the policy.

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36. Let us now turn to the General Exclusion Clause 5 of the Standard Fire and Special Perils Policy, which reads thus:

> **5.** Loss, destruction or damage to bullion or unset precious stones, any curios or works of art for an amount exceeding Rs.10,000/-, goods held in trust or on commission, manuscripts, plans, drawings, securities, obligations or documents of any kind, stamps, coins or paper money, cheques, books of accounts or other business books, computer system records, explosives unless otherwise expressly stated in the policy.

36.1. A reading of General Exclusion Clause 5 would indicate that goods held in trust or on commission would stand excluded from the insurance coverage unless otherwise expressly stated in the policy.

37. The National Commission relied upon the expression 'goods held in trust or on commission' appearing in the aforesaid clause and held that the agricultural produce belonging to the farmers were excluded from the insurance cover. While doing so, the National Commission placed considerable emphasis upon the fact that those goods did not

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belong to the appellant and held that the goods were held in trust for which no premium was paid.

38. However, as noticed supra, the exclusion clause does not exclude all goods belonging to third parties. It specifically refers to 'goods held in trust or on commission'.

39. We may now refer to clause FA in the schedule to the policy. The schedule to the policy expressly makes the policy subject to clauses FA, FC, FG and FH. Clause FA is the agreed bank clause which has also been mentioned in the report of the surveyor appointed by the respondents i.e. M/s Cunningham Lindsey International Pvt. Ltd. Sum and substance of the agreed bank clause is that upon any monies becoming payable under the policy, the same shall be paid by the company (respondents herein) to the bank (SBI herein) and such part of any monies so paid as may relate to the interests of other parties insured under the policy shall be received by the bank (SBI herein) as agents for such other parties.

40. It is the admitted position that the stocks lying in the warehouse were hypothecated with the SBI, which mandated the stocks to be insured. Respondents were aware of such

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hypothecation when the policy was issued. In the written submissions before the State Commission, respondents had stated that the agricultural produce belonging to various farmers were stored in the warehouse and that the appellant charged fees from them for such storage. Thus, the hypothecation of the stocks with the SBI alongwith reference to clause FA in the policy schedule which is the agreed bank clause are required to be taken into consideration.

41. That apart, the General Exclusion Clause 5 cannot be considered in isolation. Annexure-B separately identifies 'stocks' and 'goods held in trust' providing an insurance cover of Rs. 1,50,00,000.00 for the former and showing 'nil' against the latter. The schedule also makes the policy subject to clause FA identified by the respondent's own surveyor as the agreed bank clause. Further, General Exclusion Clause 5 itself concludes with the expression 'unless otherwise expressly stated in the policy'. Therefore, the general exclusion clause has to be read in the context of the overall policy including the agreed bank clause. The agreed bank clause cannot be construed *de hors* the policy. Similarly, the exclusion cannot be

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applied merely because the goods belonged to persons other than the appellant.

42. This boils down to the decisive question as to whether the goods were held in trust or on commission or whether those were received and stored in the warehouse under a contractual arrangement of bailment?

43. The National Commission while rejecting the claim of the appellant in respect of the stock, proceeded substantially on the basis that the goods belonged to farmers other than the appellant and, therefore, the goods were held in trust within the meaning of the General Exclusion Clause 5. In our view, such an approach did not sufficiently examine the nature of the legal relationship under which the goods were stored in the warehouse. The National Commission ought to have examined whether the goods were held in trust in the legal sense as contemplated by the policy instead of treating third party ownership as sufficient to attract the exclusion. The distinction drawn in Annexure-B between 'stocks' and 'goods held in trust', the reference to clause FA in the schedule, the effect of the agreed bank clause and the express language of the General

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Exclusion Clause 5 were all relevant factors which escaped consideration by the National Commission.

44. The aspect regarding payment of additional premium of Rs. 1500.00 also needs to be addressed. While appellant at one point of time had contended that additional premium of Rs. 1500.00 was paid for the 'goods held in trust', respondents denied receipt of any such premium which stand was accepted by the National Commission. The material placed before this Court indicates that the said amount related to an earlier policy issued by the United India Insurance Company Limited and not related to the present policy issued by the respondents for the relevant period. Be that as it may, this disputed issue of payment or non-payment of additional premium would pale into insignificance in the teeth of the principal question which has emerged in this case, which is, whether the goods were received and stored in the warehouse under a contract of bailment?

45. We may now examine the nature of the relationship between the appellant and the farmers whose agricultural produce were stored in the warehouse. The question is whether such goods were held by the appellant in trust as contended by

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the respondents and accepted by the National Commission or whether those goods were received and stored by the appellant in the warehouse under a contractual arrangement of bailment?

46. In this regard, we may refer to Section 148 of the Indian Contract Act, 1872, which defines bailment, bailor and bailee. Section 148 of the Indian Contract Act, 1872 reads as under:

> **148. 'Bailment', 'bailor' and 'bailee' defined.—**
>
> A 'bailment' is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the 'bailor'. The person to whom they are delivered is called the 'bailee'.

46.1. As per the aforesaid provision, a bailment is the delivery of goods by one person to another for some purpose upon a contract that when the purpose for which those goods were received is accomplished, those shall be returned or otherwise disposed of as per the directions of the person delivering the goods. The person delivering the goods is called

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the bailor and the person to whom the goods are delivered is called the bailee.

47. Thus, the essential elements of bailment are the delivery of goods by one person to another; such delivery being for some purpose; and following a contract that upon accomplishment of such purpose the goods would be returned or otherwise disposed of according to the directions of the person delivering the goods. Such delivery of possession of goods does not result in transfer of ownership in the goods. The bailee obtains possession of the goods for the purpose contemplated by the contract and has corresponding obligation towards the bailor. Therefore, whether a particular arrangement constitutes bailment or not, has to be determined with reference to the substance of the contract and the obligations of the parties.

48. The question whether goods belonging to farmers and kept in a cold storage would fall within the expression 'goods held in trust or on commission' was examined by this Court in *Canara Bank.* In that case, the insurance company had taken the stand that since the goods were held in trust by the cold storage, the exclusion clause would operate and, therefore, no liability could be fastened onto the insurance company. This

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Court rejected the said contention of the insurance company. It was noticed by the Court that the farmers had agreed to pay rent for keeping their produce in the cold storage and that the goods were delivered for possession of the cold storage under a contractual arrangement. The relationship between the farmers and the cold storage was, therefore, one of bailor and bailee, with the cold storage holding the produce as bailee for consideration. This Court held thus:

> **35.** In the present case, as pointed out above, the farmer had agreed to pay consideration to the cold store and, therefore, the goods were not held in trust per se but the goods were held by cold store as bailee of the goods for consideration. The possession of the farm produce was handed over by the bailor i.e. farmer to the cold store i.e. the bailee, in terms of the contract. There may be inter se rights and liabilities between the farmer and the cold store but it cannot be said that the goods were held 'in trust'. The goods were also not held 'on commission'. No commission was payable and only rental was paid. Therefore, we reject this argument on behalf of the Insurance Company.

49. The decision in *Canara Bank* makes it clear that the mere fact that goods belonging to another person are kept in the custody of a warehouse or cold storage would not mean that the

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'goods were held in trust or on commission'. What is required to be examined is the nature of the arrangement under which the goods were received and the capacity in which those were stored. In *Canara Bank*, this Court noticed that the farmers had delivered their produce to the cold storage against payment of rent; thus, the relationship was one of bailor and bailee.

50. Applying the above principles to the facts of the present case, there is no doubt that the agricultural produce belonging to the farmers were stored in the appellant's warehouse against payment of storage charges. The purpose of such delivery was storage and safe custody of the produce. The warehouse was required to retain the goods for the purpose for which those were delivered and thereafter to release or deal with such goods in accordance with the directions of the farmers who had handed over the goods. Such an arrangement is consistent with the essential elements of bailment under Section 148 of the Indian Contract Act, 1872. The fact that ownership of the produce continued to vest in the farmers does not alter the character of the transaction. On the materials on record, it is evident that the relationship between the appellant and the

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owners of the agricultural produce was that of a bailee and bailor and not one of trustee and beneficiary or agent and principal holding goods on commission.

51. In the present case, appellant is the proprietor of Nikhra Warehouse. Agricultural produce belonging to different farmers were stored in the warehouse. Respondents in the written submission filed before the State Commission admitted that the warehouse stored goods belonging to different farmers for which the appellant charged fees from the farmers. It thus establishes that the goods were not merely kept in the warehouse gratuitously or in some informal arrangement but were received in the course of the warehouse's business against payment of storage charges.

52. Ownership of the goods is therefore not determinative of the existence of an insurable interest. A bailee may have an insurable interest in the goods entrusted to its custody by reason of the possession and responsibilities undertaken in respect of the bailment. The appellant, being the proprietor of the warehouse in which the agricultural produce were stored for consideration, had a legally cognizable interest in the

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preservation of the goods and in the performance of the obligations arising from the storage arrangement. The fact that the goods belonged to the farmers would not by itself deny the appellant of an insurable interest in the goods or render the insurance cover in respect of the stored stock redundant.

53. Respondents have relied upon to a great extent on the expression 'goods held in trust' used in the consumer complaint filed by the appellant himself. While it is true that at the initial stage, appellant had described the goods stored in the warehouse as 'goods held in trust', but according to us, that by itself, may not be determinative of the nature of the goods stored in the warehouse or the character of the relationship between the owner of the warehouse i.e. the appellant and the farmers who had stored their agricultural produce in the warehouse on payment of charges. For a proper appreciation, the complaint has to be read as a whole and the nature of the transaction has to be examined in the light of the pleadings, the documents on record, including the policy, and the surrounding circumstances. Mere use of the expression 'held in trust' in the complaint would not constitute an admission that the agricultural produce of

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different farmers stored in the warehouse were held in trust when the materials on record clearly show otherwise.

54. The question of insurable interest also brings into focus the position of the farmers whose agricultural produce were stored in the warehouse. At the relevant point of time, the appropriate legislation was the Consumer Protection Act, 1986. We may refer to Section 2(1)(d) of the Consumer Protection Act, 1986 which defines the expression 'consumer'. Section 2(1)(d) reads as follows:

> **2. Definitions. —** (1) In this Act, unless the context otherwise requires, —
>
> **(d) 'consumer' means any person who, —**
>
> (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
>
> (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and

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> includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose.

55. The scope of the expression 'consumer' as defined under the Consumer Protection Act, 1986, particularly with reference to persons who are beneficiaries of an insurance policy without being parties to the contract of insurance, came up for consideration before this Court in *Canara Bank*. This Court explained the width of the definition of 'consumer' under the Consumer Protection Act, 1986 in the following manner:

> **27.** The definition of 'consumer' under the Act is very wide and it not only includes the person who hires or avails of the services for consideration but also includes the beneficiary of such services who may be a person other than the person who hires or avails of services.

55.1. In so far the Consumer Protection Act is concerned, it is not necessary that there should be a privity of contract between the insurance company and the beneficiaries. The

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definition of consumer is wide enough to include not only the person who has hired or availed of the services but also includes any beneficiary of such services. It is not necessary that those beneficiaries should be parties to the contract of insurance. They are consumers not because they are parties to the contract of insurance but because they are the beneficiaries of the policy taken out by the insured. Relevant portion of the judgment in *Canara Bank* is extracted hereunder:

> **28.** Taking the issue of privity of contract, we are of the considered view that as far as the Act is concerned, it is not necessary that there should be privity of contract between the Insurance Company and the claimants. The definition of 'consumer' under Section 2(d) quoted hereinabove is in two parts. Sub-clause (i) of Section 2(1)(d) deals with a person who buys any goods and includes any user of such goods other than the person who buys such goods as long as the use is made with the approval of such person. Therefore, the definition of consumer even in the first part not only includes the person who has purchased but includes any user of the goods so long as such user is made with the approval of the person who has purchased the goods. As far as the definition of 'consumer' in relation to hiring or availing of services is concerned, the definition, in our view, is much wider. In this part of the section, consumer includes not

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> only the person who has hired or availed of the services but also includes any beneficiary of such services. Therefore, an insured could be a person who hires or avails of the services of the Insurance Company but there could be many other persons who could be the beneficiaries of the services. It is not necessary that those beneficiaries should be parties to the contract of insurance. They are the consumers not because they are parties to the contract of insurance but because they are the beneficiaries of the policy taken out by the insured.

56. Let us now examine the report of the surveyor appointed by the insurer. However, before adverting to the report, it would be necessary to examine the statutory provisions governing assessment of insurance claim by an approved surveyor.

57. For this purpose, let us examine Section 64UM of the Insurance Act, 1938 which deals with licensing of surveyors and loss assessors. Sub-section (2) of Section 64UM, as it stood at the relevant time, is relevant which reads as follows:

> **64-UM. Licensing of surveyors and loss assessors–**
>
> **(1)** * * * * *
>
> **(2)** No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding twenty thousand rupees in value on any

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> policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance (Amend-ment) Act, 1968, shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as 'approved surveyor or loss assessor'):
>
> Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.
>
> * * * *

57.1. From a careful reading of the aforesaid provision, it is evident that where the claim in respect of a loss is of the prescribed value or above, assessment by an approved surveyor or loss assessor is a statutory requirement before the claim is admitted for payment or settled by the insurer. The proviso, however, makes it clear that the insurer is not bound to settle the claim at the amount assessed by the approved surveyor or by the loss assessor. This provision, therefore, recognizes the

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importance of the surveyor's assessment without making it conclusive of the amount payable under the policy.

58. The scope of Section 64UM(2) of the Insurance Act, 1938 and the evidentiary value of the surveyor's report came up for consideration before this Court in *New India Assurance Co. Ltd. Vs. Pradeep Kumar.*[11] This Court held that although the assessment of loss by an approved surveyor is a pre-requisite for payment or settlement of a claim of the prescribed value, the surveyor's report is not the last and final word. It may be the basis or foundation for settlement of a claim but such a report is neither binding upon the insurer or the insured. In an appropriate case, it may be departed from where the materials on record warrant such a course.

59. In *National Insurance Co. Ltd. Vs. M/s Hareshwar Enterprises (P) Ltd.*[12], this Court reiterated the proposition that while assessment of loss by an approved surveyor is a pre-requisite for settlement of an insurance claim, the same would

[11] (2009) 7 SCC 787
[12] (2021) 17 SCC 682

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however not be the last and final word. This Court observed as under:

> **14.** … it is no doubt held that though the assessment of loss by an approved surveyor is a prerequisite for payment or settlement of the claim, the surveyor report is not the last and final word. It is not that sacrosanct that it cannot be departed from and it is not conclusive. The approved surveyor's report may be the basis or foundation for settlement of a claim by the insurer in respect of loss suffered by insured but such report is neither binding upon the insurer nor insured. On the said proposition, we are certain that there can be no quarrel. The surveyor's report certainly can be taken note as a piece of evidence until more reliable evidence is brought on record to rebut the contents of the surveyor's report.

60. What emerges from the above analysis is that the report of an approved surveyor, though relevant for the assessment of an insurance claim, is neither conclusive nor binding upon the insurer or the insured. Discretion is vested upon the insurer and the insured to make a departure therefrom if more reliable evidence is brought on record. Assessment made by the surveyor must therefore be considered in the light of the overall materials available on record. In this

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regard, we may usefully extract the observations made by this Court in *M/s Hareshwar Enterprises (P) Ltd.*:

> **17.** Having noted the said decisions, we are of the opinion that the same cannot alter the position in the instant case. On the proposition of law that the surveyor's report cannot be considered as a sacrosanct document and that if there is any contrary evidence including investigation report, opportunity should be available to produce it as rebuttal material, we concur. However, the issue to be noted is as to whether the surveyor's report in the instant case adverts to the consideration of stock position in an appropriate manner and in that circumstance whether an investigation report which is based on investigation that was started belatedly should take the centre stage. The fact remains that the surveyors report is the basic document which has statutory recognition and can be made the basis if it inspires the confidence of the adjudicating forum and if such forum does not find the need to place reliance on any other material, in the facts and circumstance arising in the case.

61. While on surveyor's report, we may also refer to a decision of this Court in *New India Assurance Co. Ltd. Vs. Mudit Roadways*[13]. This decision concerns a fire incident in a warehouse and the competing reports regarding the cause of

[13] (2024) 3 SCC 193

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fire. While considering the evidentiary value of the surveyor's report, this Court observed thus:

> **46.** Guided by the above ratio, the situation in the present case is found to be similar. The surveyor's report cannot be considered a sacred document and contrary evidence, including an investigation report, is subject to rebuttal.

62. The aforesaid observation of this Court came in the context of the controversy in *Mudit Roadways*. The principal dispute therein related to the cause of the fire and the differing conclusions recorded by the different agencies.

63. In so far the present case is concerned, there is no comparable controversy regarding the occurrence of hailstorm and the damage to the warehouse and to the stock stored therein occasioned thereby. There is no dispute to the incident of hailstorm and the damage caused thereby. The dispute is relating to the manner in which the claims under the two heads were considered. The decision in *Mudit Roadways* reiterates the principle that a surveyor's report is open to rebuttal; the actual assessment must necessarily depend upon the nature of the dispute and the material available in each case.

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64. Let us now examine the report dated 16.07.2007 submitted by M/s Cunningham Lindsey International Pvt. Ltd. The report is in two parts, the first part deals with the damage to the warehouse building whereas the second part deals with liability of the insurance company to indemnify the loss for the damaged agricultural produce stored in the warehouse. While the surveyor's report quantified the damage to the warehouse building, it declined to assess the damage to the stock stored in the warehouse on the ground that the goods belonged to third parties and were held in trust. Therefore, in so far the claim relating to agricultural produce is concerned, the surveyor's report does not disclose an assessment of the actual loss suffered. The claim was declined on the basis of the surveyor's understanding of the policy exclusion relating to goods held in trust.

65. As regards the agricultural produce belonging to the farmers and stored in the warehouse against payment of storage charges are concerned, we have already held that the relationship between the appellant and the owners of the produce was one of bailment and not one of trust or commission. General Exclusion

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Clause 5, which refers to goods held in trust or on commission, could not have been applied merely on the basis of third party ownership. The principles explained by this Court in *Canara Bank* have a direct bearing on the controversy before us. Applying the same to the facts of the present case, we are unable to sustain the view taken by the National Commission that the damaged agricultural produce stood excluded from the insurance coverage.

66. Ordinarily, in such a case, we would have remitted the matter back to the National Commission for an assessment of the loss to the stock. But having regard to the fact that the occurrence took place in the year 2007 with the appellant instituting the complaint in 2007 itself which is more than 19 years ago, we are not inclined to remit the matter back to the National Commission at this distant point of time. Moreover, the damaged agricultural produce won't be around for the surveyor to make any assessment of the damage suffered.

67. Assessment by the appellant's surveyor and by the revenue authorities are on record which can be looked into by us since we are at the stage of appeal. All that we need to

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examine is whether those were properly made and are acceptable.

68. The State Commission in its order dated 22.07.2011 referred to the stock register produced before it and recorded that the same disclosed the stock position in the warehouse on the date of the incident. The Tehsildar's endorsement dated 12.04.2007 is an approval of the stock position on the said date. In so far the assessment of loss is concerned, the State Commission had considered the stock register maintained in respect of the agricultural produce, the *panchnama* prepared by the Revenue Inspector and verified by the Tehsildar, and the assessment of loss made by the Tehsildar. While the stock register disclosed the stock position of the warehouse on the date of the occurrence, the assessment of Rs. 36,83,955.00 related to the loss suffered on account of damage to the stored agricultural produce because of seepage of water in the warehouse due to the hailstorm.

68.1. While carrying out the aforesaid exercise, the State Commission recorded the facts as under:

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4. On 13.03.2007 at about 5:00 pm there was hail storm and heavy rains due to which the stocks kept in the said warehouse was substantially damaged and building was also damaged quite substantially. At that time stocks of soyabean, bazra, urad, dhan, jwar, gwar and rice were kept under the said warehouse belonging to various agriculturists. Since stock position was required to be forwarded to the bank, the stock recorded on 03-03-2007 in the register was 1.51 crores as per the total stock. The complainant has averred that the roof sheets of the warehouse were comprehensively damaged and rain water had destroyed approximately 25% of the stock. The complainant lodged the report to the SDO, Dabra on 14.3.2007 and an intimation to this effect was sent to opposite party on the same date for appointment of a surveyor to assess the loss. On the complaint being lodged by the complainant to the SDO, Dabra, the Revenue Inspector, Dabra prepared a punchnama on 30.03.2007 accordingly on 12.4.2007 it was finally endorsed by the Tehsildar vide order dated 12.4.2007 that the complainant sustained loss to the tune of Rs. 36,83,955.00 in the stocks.

68.2. After due consideration, the State Commission came to the following conclusions:

13. Now it takes us to the damage of the grains stored in the warehouse. The most accurate loss assessed is by the Tehsildar vide Ex. P/22 to the effect that there was loss of Rs.36,83,955.00 as reported in Ex. P/22. Ex. P/34 is the stock

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register prepared for the bank which showed the position of the grains of the value of Rs. 1,15,39,246.00.

69. The assessment of loss made by the Tehsildar was pragmatic, based on the materials on record, and was rightly accepted by the State Commission. On an overall consideration, we find no justification to interfere with the amount of Rs. 36,83,955.00 determined by the State Commission and awarded as compensation towards the damaged agricultural produce.

70. The assessment of damage to the warehouse building stands on a different footing. The surveyor assessed the gross damage at Rs. 2,12,533.00. After making certain deductions, the net amount payable was assessed at Rs. 1,44,401.00. The Tehsildar, on the other hand, assessed the damage to the warehouse building at Rs. 6,41,268.00. The State Commission accepted the later assessment whereas the National Commission proceeded on the basis of the surveyor's report. National Commission had made an analysis of the assessment made by the surveyor and after due consideration had accepted the same

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which is Rs. 1,44,401.00. This amount of assessment, we are inclined to accept.

Conclusions

71. That being the position, we set aside the final order dated 24.02.2020 passed by the National Commission in so far rejection of the insurance claim regarding damage to the stored agricultural produce is concerned and restore the order of the State Commission dated 22.07.2011 passed in Consumer Complaint No. 16 of 2007. On the other hand, as regards the claim due to damage to the warehouse building is concerned, we uphold the assessment of the compensation awarded and quantified at Rs. 1,44,401.00 by the National Commission in its order dated 24.02.2020. In this regard, the finding of the State Commission in its order dated 22.07.2011 is set aside.

72. Consequently, appellant is held entitled to the following amounts from the respondents: i) damage to the warehouse – Rs. 1,44,401.00; and, ii) damage to the stored agricultural produce – Rs. 36,83,955.00, totaling to Rs. 38,28,356.00.

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73. The aforesaid amount shall carry interest at the rate of 7% per annum from the date of filing of the complaint.

74. The civil appeal is accordingly allowed in the aforesaid terms. However, there shall be no order as to cost.

.....J.
[UJJAL BHUYAN]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI;
NOVEMBER 26, 2026.