(1996) 09 CAL CK 0032

In the Calcutta High Court

Case No : C.O. No. 10444 (W) of 1990

Mohit Kumar Saha APPELLANT

Vs

New India Assurance Co. Ltd. and others RESPONDENT

Date of Decision : 06-09-1996

Acts Referred:

Constitution of India, 1950 — Article 12, 14, 226
Contract Act, 1872 — Section 124
Insurance Act, 1938 — Section 46, 60(2), 68
Penal Code, 1860 (IPC) — Section 307, 326, 34, 379

Citation : (1997) ACJ 1170 : AIR 1997 Cal 179

Hon'ble Judges : Sujit Kumar Sinha, J

Bench : Single Bench

Advocate : Nigam Chakraborty, Sanjib Mishra and Mrs. Puspita Saha, for the Appellant; Biswajit Chowdhury and P.K. Paher, for the Respondent

AI Structured Summary

AI-generated summary — verify against the full judgment text before relying on it in practice.

FACTS

The petitioner took an insurance policy for Rs. 2 lakhs for his truck. The truck was stolen by the driver while the petitioner's father was assaulted. After filing a police report, the petitioner submitted a claim to the insurance company, which later only partially acknowledged the claim and requested a final police report. The petition culminated in a writ application when the respondent denied full payment, leading to this judgment.

LAW POINTS

['Whether the insurance company is liable to pay the full assessed amount for the insured truck', 'Whether the claim of the petitioner should be settled based on the licensed surveyor’s assessment', "Validity of the insurance company's requirement for a final police report before settling a claim", 'Appropriateness of exercising writ jurisdiction over a private contract dispute', 'Consideration of interest on the delayed claim payment']

ACTS & ARTICLES

['Insurance Act, 1938', 'Article 226 of the Constitution of India', 'Sections 326, 307, 379 of the Indian Penal Code']

JUDGMENTS REFERRED

['L. Hirday Narain Vs. Income Tax Officer, Bareilly', 'Dilip Kumar Ghosh v. New India Assurance Co. Ltd. (1990) 2CHN 94', 'Life Insurance Corporation of India v. Gangadhar Viswanath Ranade, AIR 1990 SC 185']

OBITER DICTA

The court expressed that the conduct of the insurance company was arbitrary and lacked transparency. It emphasized that a final report was indicated by the police charge-sheet submitted, despite the insurer's insistence on further reports.

RATIO DECIDENDI

The court established that the insurer was liable to indemnify the petitioner for the assessed loss of Rs. 1,87,492 as a constructive total loss. The requirement for a final police report was deemed unreasonable as a charge-sheet indicated completion of the investigation.

FINAL RULING

The respondent insurance company was ordered to pay the Bank of Baroda Rs. 56,753 plus interest at 18% per annum from April 15, 1989 until payment. The bank was directed to accept this amount in full and final settlement of the petitioner's loan account.

PLAIN-LANGUAGE GIST

The dispute revolved around the amount payable under an insurance policy following the theft of the petitioner's truck. The court ruled in favor of the petitioner, directing full and timely payment based on the insurer's obligations under the policy.

