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**(2019) 10 DEL CK 0064**

**In the Delhi High Court**

**Case No :** Arbitration Petition No. 570 Of 2019

M/S Gill Acqua Hydro Power Generation Company Pvt.Ltd — APPELLANT

Vs

M/S The New India Assurance Co. Ltd. & Anr — RESPONDENT

**Date of Decision :** 10-10-2019

**Acts Referred:**
Arbitration And Conciliation Act, 1996 — Section 11(6), 12

**Citation :** (2019) 10 DEL CK 0064

**Hon'ble Judges :** Jyoti Singh, J

**Bench :** Single Bench

**Advocate :** Dinesh Sharma, Ritika Jhurani, Sanjay Rawat

**Final Decision :** Disposed Of

## Judgement

Jyoti Singh, J

1. This is an application filed under Section 11(6) of the Arbitration & Conciliation Act, 1996, ('the Act') for appointment of Sole Arbitrator to adjudicate the disputes between the parties.

2. The disputes arise out of an Erection All Risk Insurance Policy which covered the project of the petitioner at Punjab, initially for a period from 10.8.2015 to 30.4.2016, wherein the sum insured was Rs.67,000,000/-. The policy was subsequently extended. On 12.7.2016 due to heavy rainfall at the project side damage was caused to the project of the petitioner and he filed a claim with the respondent.

3. It is contended by learned counsel for the respondent that the respondent has in fact admitted that the claim of the petitioner was payable but since the assessed claim falls within Minimum Excess Clause no amount would be released.

4. Since the respondent did not release the claim of the petitioner, the petitioner invoked arbitration vide letter dated 1.6.2019. Getting no response from the respondent the present petition has been filed.

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5. The said policy contains an arbitration clause which reads as under:-

"If any dispute or difference shall arise as to the quantum to be paid under this Policy(liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator, to be appointed in writing by the parties to or, if they cannot agree upon a single arbitrator within 30 days of any party invoking Arbitration, the same shall be referred to a panel of three Arbitrators comprising of two Arbitrators - one to be appointed by each of the parties to the dispute/difference, and the third Arbitrator to be appointed by such two Arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act 1996.

It is clearly agreed and understood that no difference or dispute shall be referable to arbitration as hereinbefore provided, if the Company has disputed or not accepted liability under or in respect of this Policy.

It is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action or suit upon this Policy that the award by such Arbitrator/Arbitrators of the amount of the loss or damage shall be first obtained."

2. Learned counsel for the respondent on instructions submits that the respondent has no objection to the appointment of Sole Arbitrator, without prejudice to his rights of disputing any allegations or averments made against the respondent in the present petition. With the consent of the parties, Hon'ble Mr. Justice (retired) G.P. Mittal is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

3. The address and mobile number of the learned Arbitrator is as under:

Hon'ble Mr. Justice G.P. Mittal (Retd.)

H-37, Green Park Extension,

New Delhi-110016

Mobile No. 9910384619

4. The learned Arbitrator shall give disclosure under Section 12 of the Act before entering upon reference.

5. Fee of the Arbitrator shall be fixed as per Fourth Schedule of the Act.

6. The petition is disposed of in the aforesaid terms.

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