

2023 LiveLaw (SC) 859

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

HIMA KOHLI; J., PAMIDIGHANTAM SRI NARASIMHA; J.

SEPTEMBER 26, 2023

CIVIL APPEAL NO. 6178/2023 (@ PETITION FOR SPECIAL LEAVE TO APPEAL NO. 24525 OF 2018)

M/S. MEHTA JEWELLERS versus NATIONAL INSURANCE COMPANY LTD.

**Insurance - Theft coverage denied saying gold wasn't kept in 'locked safe' -
Insurance claim cannot be rejected based on ambiguous term. (Para 3)**

(Arising out of impugned final judgment and order dated 09-08-2018 in FA No. 435/2012 passed by the National Consumer Disputes Redressal Commission, New Delhi)

For Appellant(s) Mr. R. Ilam Paridi, AOR Mr. Vishnu Kumar, Adv. Mr. Aman Kumar, Adv. Mr. Vikhyat Oberoi, Adv.

For Respondent(s) Ms. Meenakshi Midha, Adv. Ms. Samiksha Gupta, Adv. Mr. Garv Singh, Adv. Ms. Tai Imchen, Adv. Mr. Chander Shekhar Ashri, AOR

ORDER

1. Leave granted. The present appeal is directed against an order dated 09th August, 2018, passed by the National Consumer Disputes Redressal Commission¹ allowing the First Appeal² filed by the respondent-Insurance Company against the order dated 24th April, 2012, passed by the State Consumer Disputes Redressal Commission³, Maharashtra in a Complaint Case⁴ filed by the appellant.

2. The brief facts of the case are as follows:

2.1 The appellant-Company deals in the business of jewellery and had purchased an insurance policy from the respondent – Insurance Company for a sum of ₹.31,00,000/- (Rupees Thirty-One Lakhs only), for insuring the ornaments lying in its showroom at Pune, Maharashtra. Insurance policies were being purchased by the appellant from the respondent-Insurance Company on an annual basis and this was the 18th running year in which the said policy was renewed by the respondent-Insurance Company. The incident in question took place on 26th June, 2007, when the appellant's shop was burgled and several gold ornaments were stolen. An FIR was lodged by the appellant and information of the theft was communicated to the respondent-Insurance Company for lodging a claim. A Surveyor was appointed to inspect the appellant's premises, whereafter the respondent – Insurance Company repudiated the claim lodged by the appellant *vide* letter dated 16th April, 2009. The reasons offered for repudiation were that "*ornaments in the shop at the material time of burglary were kept in a steel safe of local make and not in burglar resistant safe*".

2.2 Aggrieved by the said denial of its claim, the appellant approached the State Commission with a consumer complaint, which was allowed *vide* order dated 24th April, 2012 and the respondent – Insurance Company was directed to pay a sum of ₹28,95,600/- (Rupees Twenty-Eight Lakhs Ninety-Five Thousand and Six Hundred only) to the

¹ National Commission

² No. 435 of 2012

³ State Commission

⁴ No.RBT/CC/11/152 in Complaint Case No. CC/10/117

complainant with interest @ 10% from the date of filing of the complaint, till realization of the payment.

2.3 The aforesaid order was taken in an appeal by the respondent – Insurance Company before the National Commission. The National Commission has allowed the appeal primarily on the ground that a simple steel almirah cannot be described as a safe and the lock installed is not complex. Therefore, the almirah could be opened by widening the space between the doors of the almirah. It has further been observed that even in common parlance, a normal steel almirah is not referred to as a “safe”. A 'safe' is understood to be a strong metal cabinet with a special lock where valuables like money, jewellery, important documents etc. are kept. Reliance has been placed in the impugned judgment on the definition of the word “safe” “*strong fireproof cabinet*” used in the Oxford Dictionary as also in the Webster dictionary. As a result the judgment of the State Commission was overturned with an observation that a steel almirah with a single lever lock cannot be treated as a “locked safe” within the terms and conditions of the policy.

3. We may note that the policy itself does not define the word “*locked safe*” nor does it define what should be the standard make of the “*locked safe*”. The expression used in the policy are “*locked safe of standard make*”. In the absence of any “*standard make*” described by the respondent – Insurance Company in the policy, and in the absence of any description of a “locked safe” by the respondent – Insurance Company, we are of the opinion that the appellant could not have been fastened with the liability of placing the jewellery in a particular safe, which can be treated as a “*locked safe*” for meeting the requirements of the respondent-Insurance Company. The definition of the term “locked safe”, itself being as ambiguous as it is, the claim of the appellant could not have been repudiated on that count.

4. On the last date of hearing, this Court had called upon learned counsel for the respondent-Insurance Company to obtain instructions as to whether in the instant case where the policy of the appellant was being renewed over a period of 18 years, how frequently had the premises, where the jewellery was secured, been inspected before renewing the insurance policy. Ms. Meenakshi Midha, learned counsel for the respondent – Insurance Company submits today that the record being very old, no such information is readily available with the Insurance Company.

5. In the facts and circumstances of the instant case, we are of the opinion that it was unjustified on the part of the respondent – Insurance Company have to repudiated the claim of the appellant for the sum claimed. For the aforesaid reasons, the amount awarded by the State Commission in favour of the appellant is upheld. The respondent Insurance Company is directed to comply with the directions issued by the State Commission and release the amount to the appellant within four weeks from today along with interest, as ordered.

6. The appeal is allowed and disposed of on the above terms while leaving the parties to bear their own cost.