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## **CASE ANALYSIS: UNITED INDIA INSURANCE COMPANY V. AMAN SINGH MUNSHILAL**

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A Contract of Indemnity as per Section 124 of the Indian Contracts Act, 1872 aims to ensure that one party compensates the other for any losses suffered by them due to the acts of the indemnifier or any third party. However, there has always been a lacuna over whether insurance agreements are going to fall within the scope of Contract of Indemnity. While on one hand, these agreements are said to be contingent in nature depending upon the happening of a future event, on the other hand there is essentially a promise made by the Insurer to compensate the insured against any damage or loss which may arise in the ordinary course.

This case essentially clarified the stance relating to Insurance Contracts being classified as Contracts of Indemnity.

### **Facts**

In this case, the Plaintiff company i.e., M/s Aman Singh Munshilal was a registered partnership. They had given 50 Bales of Cotton to Hansi Public Carrier Union to be transported to Phulwari Sharif for M/s Bihar Cotton Mills which was one of the defendant parties. They had taken the consignment to the Ghaziabad Border where it was unloaded at the godown belonging to Milap Transport Roadways, Ghaziabad. The plaintiff had insurance for his goods against any fire or loss of goods while they are in transit of the value of Rs 1 Lakh. While the goods were stored in the godown, a fire broke out, and the goods as a result got damaged. After this damage, the Plaintiff Company through a telegram tried to claim insurance for the damaged goods from the Insurance Company and submitted a detailed report by the surveyor. However, the company wasn't responding and after the expiry of 6/7 months, the Insurance Company contended the claim made by the Plaintiff. As a result, the Plaintiff Company filed a case against the Insurance Company. However, the previous Partnership Firm had dissolved and substituted by the Plaintiff Firm due to which question was raised as to whether they can be entitled to the insurance amount. Further, the Insurer was contending that the report of damaged goods was

also fabricated especially the Exhibit P10. The District Court ruled in the Plaintiff's favour due to which an appeal was made by the Insurer before the High Court of Punjab-Haryana.

### **Issues**

The primary issues before the High Court, in this case, were as follows:

- a) Whether the insurer is liable to pay for the damaged goods in transit? If yes, then to what extent?
- b) Whether the dissolution of the previous partnership firm for a new firm discharge the liability of the insurance company?

### **Laws Applicable**

The legal provisions applicable in this case are as follows:

1. Section 124 of the Indian Contracts Act, 1872
2. Section 125 of the Indian Contracts Act, 1872

### **Analysis**

The contract with the insurance company can be stated as a Contract of indemnity. Under Section 124 of the Indian Contracts Act, 1872 a Contract by which one party promises to save the other from the loss caused by an act of the promisor or any other third party is said to be a Contract of Indemnity. There are two parties in a Contract of Indemnity namely the indemnifier who compensates for the loss or damage suffered and the indemnified party which is entitled to compensation for all losses suffered. In this case, the insurance company had to provide for any loss of goods during transit, it can be said as a Contract of Indemnity wherein the Insurance Company is the indemnifier and the insured party is the indemnified. This is indemnity insurance as the company under the policy is obligated to compensate the party for any accidental damages equivalent to the value of loss in this case.

Since in this given case, the goods were damaged in the godown maintained by M/s Milap

Transport the Insurance Company was contending that they aren't liable. However, the entire route of the transport of goods was considered under the document entered into amounting to transit. This damage to goods that had taken place will be ordinarily considered for claiming the insurance amount. Hence, the Company is going to be held liable.

Another contention that was raised was that the survey report consisting of Exhibit P10 was completely fabricated and shouldn't be considered as it was for the earlier Partnership Firm that had been dissolved on account of the death of one of the partners. However, it had been clearly specified in the agreement that all the rights and liabilities of the previous partnership firm have been transferred to the new firm.

Hence, they can get the insurance amount in this case as they had the right to lawfully claim the same just like the previous partnership firm. The liability of the Insurance Company is not to be discharged because of the dissolution of the previous firm as all the rights and liabilities had been completely transferred.

The last remaining question or contention that was raised was regarding the exact value of the goods that had been damaged. There was no evidence to substantiate the quantum of damages. However, the Court held that the primary witness in this case Prem Sagar testified that the account books were written in his presence and it amounted to valid oral evidence.

Therefore, according to Section 125 of the Act, the Insurance Company had to indemnify the Plaintiff company to the extent of losses suffered by them because of the damaged goods caused due to fire. They aren't going to be exempted from liability because the goods were burnt due to fire while they were in transit. The basic purpose of this section is to restore the position of the indemnified party in case they suffer any loss or damage due to no fault of theirs. In other words, if the indemnified behaved prudently in any given situation regardless of which the damage occurred, the Insurance Company would be required to reimburse. It would include any and all forms of costs in the form of suit fees, compromise, or anything else which the insurance company might be required to provide under appropriate circumstances.

## **Conclusion**

The Court, in this case, ordered the Company to approximately pay Rs 98,000 to Plaintiff for the goods along with a 6% rate of interest from the date of passing the order till the time the

amount is actually realized. This order had been given by the District Court and the same was upheld by the High Court without any change in liability of the Insurance Company. This judgement was fully justified as transit would mean all stages before the consignment reaches the actual destination and all the claims arising during transit were being covered. It was a major judgement with respect to Contracts involving indemnification by one party to the other.

## References

- United India Insurance Company v. Aman Singh Munshilal AIR 1994 P H 206 (India)
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