2025 INSC 1444

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2052 OF 2016

CEMENT CORPORATION OF INDIA ...APPELLANT (S)

VERSUS

ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED ...RESPONDENT (S)

J U D G M E N T

VIJAY BISHNOI, J.

1. This appeal has been preferred by the Appellant challenging the Judgment dated 16.07.2015 (hereinafter referred to as "**impugned judgment**") passed in **CASE NO.210/2009** by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as "**NCDRC**"). The NCDRC, thereby **dismissed the complaint** preferred by the Appellant-Insured herein, thus denying the Appellant any

reimbursement/claim from the Respondent-Insurance Company herein.

BRIEF FACTS

2. The brief facts giving rise to the controversy are that the Appellant, a Government company, invited tender for insurance for its various Units/Dumps/Offices etc., in June 2005. Pursuant to the said tender, on 16.06.2005 the Respondent herein submitted its quote for centralized insurance policy and consequently, on being declared as the successful bidder, the Respondent was awarded the contract for Centralised Insurance coverage at the CO Unit and Zonal Units. Accordingly, a contract dated 21.07.2006, was entered between the Appellant and the Respondent herein and a **Standard Fire and Special Perils Policy (Material Damage)** (hereinafter referred to as **"the policy"**) was issued by the Respondent herein for the Appellant's unit, Mandhar Cement Factory, Cement Corporation of India, P.O. Mandhar, Rampur District, Chhattisgarh 243111 (hereinafter referred to as "**factory**").

3. On the early morning of 01.11.2006, a theft and fire incident occurred at the factory of the Appellant where some petty thieves entered the premises of the Appellant company with a blow torch and portable gas cutter-like apparatus. Although the thieves intended to steal winding copper and transformer oil, using bolt cutters and blow torch, which triggered a fire in the transformer and resulted in a fire in the factory premises. Following this, the Appellant formally notified the Respondent about the incident through a letter dated 01/02.11.2006 and also got registered an FIR bearing No. 106/2006 dated 01.11.2006 with the concerned police station.

4. On 30.01.2007, the Appellant calculated the loss and lodged a claim of Rs. 2,20,14,190 with the Respondent. The Respondent, *vide* letter dated 15.05.2007, acknowledged the receipt of the claim and requested the Appellant to submit the documents as required by the panel adjuster/Surveyor.

5. On 12.10.2007, the Final Survey Report was submitted by the Surveyor. In the said survey report, circumstances of loss and cause of fire have been reported as under:

"…….

Circumstances of Loss	*As reported, at around 7 a.m. on 1st November 2007, a fire incident took place inside the plant premises, in the Transformer SI. No. 24994, which had no electrical input / output power for the last several years. The Fire Brigade on receipt of the Call of Duty from the Insured's staff, reached there and extinguished the fire, which was of a light nature due to the absence of combustibles, viz. very little transformer oil was inside.* *From local enquiries it was learnt that being a silent Risk, there were a past history of theft of transformer oil and copper windings by local petty thieves and miscreants on several occasions, being a desolate place with thick bushy growth all around.* *This fire incident was a result of attempted theft, by blow lamp / portable gas cutters, who had on the previous night stole oil from another similar Transformer, SI. No. 24993, which was not affected by the fire.*
Cause	*Transformer, SI. No. 24994 was reported to have been set on fire while some unknown miscreants / thieves were attempting to take away the copper windings with the help of blow torch or such type of flame cutters.*

….."

Based on this the Surveyor thus opined that in this situation insurer's liability would not attach as the cause falls under the exclusion sub-clause (d) of Clause V in the Policy.

6. Relying upon the said survey report, the Respondent *vide* letter dated 04.01.2008 repudiated and rejected the claim of the Appellant on the grounds that the peril was not covered under the Policy as the cause of the loss was covered under the exclusion clause of Riots Strike, Malicious and Damage

("*hereinafter referred to as* ***RSMD"***). The contents of the Repudiation letter are reproduced hereunder:

> *" ...our surveyor was in contact with you and as per the report submitted by them the proximate cause of loss was Burglary.*
> *Kindly note that this policy is a named peril policy and this peril is not covered under the policy (RSMD Exclusion Clause-D).*
> *In the light of the above facts, we are treating the case as 'No claim' and accordingly closing the same as 'Nil Liability' case."*

7. Being aggrieved by the repudiation of the claim by the Respondent, the Appellant filed Complaint No. 210 of 2009 before the NCDRC, *inter alia* praying that the Respondent be directed to pay the Appellant a sum of Rs. 2,99,39,298.40 along with interest @18% p.a. till date.

8. The Respondent filed their written submissions before the NCDRC *inter alia* stating that the theft which took place on the premises in the factory preceded the fire, and thus, the incident of theft was the proximate cause of damage. Since theft was not a named peril in the policy, the Respondent was not liable to reimburse the damage claim of the Appellant.

9. The NCDRC *vide* the impugned judgment dismissed the complaint on grounds that the proximate cause of the loss to

the Appellant was burglary and the insurance policy taken by the Appellant did not cover the loss on account of theft/ burglary. Therefore, the Respondent is not liable to compensate the loss to the Appellant. While arriving at this conclusion, the NCDRC has placed reliance on the judgment of this Court in ***New India Insurance Company Limited Vs. Zuari Industries Limited & Others (2009) 9 SCC 70,*** holding that the proximate cause means *"active and efficient cause"* and not merely the event closest in time.

10. Aggrieved by the impugned judgment, the Appellant filed the instant civil appeal.

SUBMISSIONS OF THE PARTIES

11. The learned counsel for the Appellant contended that a fire insurance policy is intended to protect against loss caused by fire, and it is trite to say that the cause of the fire is irrelevant unless it stems from a peril expressly excluded in the policy. It is pertinent that under the "Fire" peril, the policy excludes merely the damage caused to the property either by (i) its own fermentation, natural heating or spontaneous combustion or undergoing any heating or drying process; and (ii) burning of

property insured by order of any Public Authority. It is further submitted that apart from this, the policy had a general exclusion clause which provides that terrorism and earthquake would be considered as an exclusion under the policy and the theft during or after the incident but not in case where it precedes the incident.

12. It is thus submitted that the cause of damage in the instant case was fire. The damage was caused by the ensuing fire itself, and not by theft/ burglary. Since the policy does not list any further caveat or exclusion regarding the cause of a fire, the insurer cannot repudiate the claim by citing theft/ burglary as the proximate cause. The cause of the fire becomes irrelevant in the absence of a specific exclusion.

13. It is further submitted that the test of proximate cause is applied to see whether the loss was due to a specified peril. However, in the present case, the damage was due to an insured peril, i.e., fire which does not categorize theft/ burglary as an exclusion. The test of proximate cause becomes irrelevant in the instant case as the damage results from separate perils and the one causing the loss (fire) is expressly covered and not excluded.

14. It is further argued that the policy does not list burglary/ theft as an exclusion in the case of fire. Thus, there is no reason for the Respondent to repudiate the claim of the Appellant on the ground that the theft precedes the fire and therefore, the cause of the loss was covered under the exclusion clause of ***"RSMD"***. It is further argued that the ***"RSMD"*** clause has no application in the facts and circumstances of the case because the damage to the insured property was caused due to fire and not by any of the exclusion made under the ***"RSMD"*** clause.

15. *Per contra*, learned counsel for the Respondent submitted that the policy is a "*named peril*" policy as opposed to a general all-risks policy and the policy contained a specific exclusion under Clause V(d) which excluded loss from "*Burglary, housebreaking, theft…….. in any malicious act.*". Further, the policy also excluded loss by theft during or after the occurrence of any insured peril except as provided under the RSMD cover.

16. It is argued that the cause of the fire is undisputed that it originated from an attempted theft/burglary where miscreants used blow lamps or portable gas cutters to steal

copper windings from a transformer. The cause of fire was also confirmed by the Fire Department Report and the Final Survey Report. Thus, the proximate cause of loss is burglary and not fire. The Appellant chose not to take a separate theft policy for its factory and therefore, on the said basis, their claim was repudiated.

17. The learned counsel also relied upon the judgment of this Court in ***Zuari Industries*** (*supra)* wherein it was established that the proximate cause of the loss would be "*the active and efficient cause that sets in motion a train or chain of events which brings about the ultimate result without the intervention of any other force working from an independent source*". It is submitted that when this reasoning is applied in the instant case, burglary/ theft was to be considered as the active and efficient cause as, had the theft not occurred, there would have been no fire, and the damage would not have happened. Since the theft/burglary comes under the exclusion of RSMD clause, the claim of the appellant has rightly been repudiated.

18. The learned counsel for the Respondent further contended that even if theft and fire are considered to be the two concurrent proximate cause of the damage, no payments

could be made to the Appellant as an exclusion clause of theft was acting under the policy and hence, the damage would be excluded from the ambit of the policy.

19. We have heard the parties and have perused the materials on record.

ANALYSIS

20. It is not in dispute that when the incident of fire took place, which resulted in loss to the property insured, the Appellant holds a "Standard Fire and Special Perils Insurance Policy" which was issued by the Respondent. The opening paragraph reads as under:

> *"… In consideration of the insured named in the Schedule hereto having paid to ICICI Lombard General Insurance Company Limited (hereinafter called the Company) the full premium mentioned in the said schedule, the Company agrees, (Subject to the Conditions and Exclusions contained herein or endorsed or otherwise expressed hereon) that if, after payment of the premium, the Property insured described in the said Schedule or any part of such Property be destroyed or damaged by any of the perils specified hereunder, during the period of insurance named in the said schedule or of any subsequent period, in respect of which the insured shall have paid and the Company shall have accepted the premium required for the renewal of the Policy, the Company shall pay to the insured the value of the Property at the time of the happening of its destruction or the amount of such damage or at its option reinstate or replace such property or any part thereof…"*
>
> ***(Emphasis Supplied)***

From the bare reading of the opening paragraph of the policy, it is clear that the Respondent had assured to indemnify the loss to the insured by any of the perils specified in the policy. The Perils which are specified in the policy are as follows: -

I. Fire
II. Lightning
III. Explosion/Implosion
IV. Aircraft Damage
V. Riot, Strike, Malicious and Damage
VI. Storm, Cyclone, Typhoon, Tempest, Hurricane, Tornado, Flood, and Inundation
VII. Impact Damage
VIII. Subsidence and Landslide including Rockslide
IX. Bursting and/or overflowing of water-tanks, apparatus, and pipes
X. Missile Testing Operation
XI. Leakage from automatic sprinkler installations
XII. Bush Fire

In each of the specified perils, certain exclusions are provided. For the present controversy, the specified peril "Fire" is relevant wherein the exclusions have been provided which are as under: -

> ***"...1. Fire:***
> *Excluding destruction or damage caused to the property insured by*
> *(a) i) its own fermentation, natural heating or spontaneous combustion.*
> *ii) its undergoing any heating or drying process.*
> *(b) Burning of property insured by order of any Public Authority..."*

From the above, it is clear that burglary/theft are not included in the exclusion given in the specified peril "Fire." The opening part of the policy specifically says that the insurance company will indemnify the loss by any of the perils specified in the policy. Once it is not disputed that the loss is caused by fire, then the cause igniting the fire becomes immaterial. The insurer cannot refuse to indemnify the damage caused by fire, which is a specified peril, on the ground that the proximate cause of fire was burglary/theft (which is excluded under the RSMD clause), particularly when no such exclusion is provided in the specified peril "Fire". Further, if we look into the general exclusion in the policy, loss by theft is excluded during or after the occurrence of the insured peril except as provided under the RSMD clause. Nonetheless, the policy is silent on the aspect of whether the burglary/ theft which precedes the insured peril is excluded or not.

21. The Respondent has repudiated the claim of the Appellant on the ground that since the theft preceded the fire, the claim for loss by the Appellant is not maintainable because under the RSMD clause, burglary/theft is an exclusion. The NCDRC had also upheld the said stand of the Respondent, however, in our

considered view, the reason for repudiation of the claim of the Appellant is not justified.

22. In *Avtar Singh's Law of Insurance, 2nd Edition 2010, pp. 89,* it was observed that the law need not go into the cause of the causes in case of fire as it may result in an infinite process. Therein it is stated as under:

> *"...Fire means actual ignition and not merely generation of heat..... BYLES J said:*
> *"The expression in the policy which we have to construe is, 'loss or damage occasioned by fire'. Those words are to be construed as ordinary people would construe them. They mean loss or damage either by ignition of the article consumed, or by ignition of part of the premises where the article is in the one case there is a loss, in the other a damage, occasioned by fire. LORD BACON says: 'It were infinite for the law to judge the causes of causes, and their impulsions one of another, therefore it contenteth itself with the immediate cause, and judgeth of acts by that, without looking to any further degree.' If that were not so, a ship in the neighbourhood of Mount Etna or Vesuvius during an eruption, and receiving damage from substances projected therefrom, might be said to be damaged by fire. So, a shot falling amongst crockeryware might in one sense be said to occasion a loss by fire. But neither of these cases would fall within these words, which must be understood in their plain and ordinary sense..."*
>
> ***(Emphasis Supplied)***

23. A fire insurance policy is essentially a contract entered between the insurer and the insured for indemnification of the loss caused to the insured goods by fire. The High Court of Madras in its judgment in ***Sri. Balaji Traders vs. United India Insurance Co. Ltd.*** reported in 2005 (1) CTC 267,

which was later confirmed by this Court, while dealing with a case where a fire took place in a godown which resulted in loss of stock to the petitioner, held that, the cause of fire is immaterial unless it is specifically pleaded that the fire was occasioned by the wilful act of foul play or fraud by the insured himself. The relevant paragraphs from the judgment of the High Court are reproduced below:

> "***...24.*** *The learned counsel for the appellant relying upon certain passage in "Fire and Motor Insurance" by E.R. Hardy Ivamy, (1973 Edition), submitted that the cause of fire in this case may not weigh the quantum of evidence or it may not be the cause for rejecting the claim, since the contract is to provide for the payment of money, upon the happening of a fire. In the said book, it is observed under the heading 'Immateriality of Cause of the Fire' as follows:*
> *"The object of the contract is to provide for the payment of a sum of money, or for some corresponding benefit, to meet a loss or detriment which may be suffered by the insured upon the happening of a fire.*
> *To carry the investigation, therefore, beyond the cause of the loss, and to cast upon the insured the burden of establishing that the cause of the fire itself was covered by his contract, would largely defeat this object.*
> *When it is one established that the loss is due to fire within the meaning of the contract, the cause of the fire is, as a general rule, immaterial.*
> *The fact that the fire was occasioned by negligence does not exempt the insurers from liability, for one of the objects of the contract of fire insurance is to provide against the consequence of negligence. It is therefore immaterial whether a fire which causes a loss is lighted improperly, or, after being properly lighted, is negligently attended, since the insured is in both cases entitled to recover.*
> *It is equally immaterial whether the fire is caused by the negligence of servants or strangers, or even by the negligence of the insured himself."*
> *It is also observed in the above cited book that,*
> *"Where the act is committed without his privity, the insured, being guilty of no misconduct himself, does not commit a breach of good faith in making a claim in respect of his loss, and is therefore not precluded from recovery."*

25. *From the above observation, which was deduced from the rulings of the High Court, it is clear that it is immaterial whether the fire was caused by the negligence of the servant of the plaintiff firm or by some other method, unless it is pleaded specifically that the fire occasioned by the willful act of foul play or fraud by the insured himself. The first defendant has not raised any plea of fraud and therefore, as observed by the learned single Judge, since the plaintiff has failed to prove the cause of fire, the claim should be negatived, is not acceptable to us.*

26. *The learned counsel for the appellant submitted, that the fire loss caused negligently by the insured, even if it is correct, is covered by fire insurance, since otherwise such policies would practically be of little importance. Therefore, on the ground that the contract is based upon the utmost good faith, the insurer cannot repudiate the claim of the insured, unless it is shown that the assured or insured failed to make such disclosure as agreed under the terms of the contract.*

27. *In the book 'Principles of Insurance Law' by Dr. Avtar Singh, it is said as follows, under the heading 'Cause of fire is immaterial':*
"In insuring against fire, the insured wishes to protect himself from any loss or detriment which he may suffer upon the occurrence of a fire, however it may suffer upon the occurrence of a fire, however it may be caused. So long as the loss is due to fire within the meaning of the policy, it is immaterial what the cause of the fire is, generally. Thus, whether it was because the fire was lighted improperly or was lighted properly but negligently attended to thereafter or whether the fire was caused on account of the negligence of the insured or his servants or strangers is all immaterial and the insurer is liable to indemnity the insured."
Therefore, considering the policies taken by the insured here, we affirm the above said view, thereby concluding that the claim of the plaintiff cannot be dismissed on the ground that the cause of fire pleaded in the plaint has not been established. The cause of fire becomes material and should be seen, where there is a defence such as that the fire occasioned not by the negligence, but by the willful act of the insured or where any foul play has been made out or suspected, which are not even pleaded in this case and no such case has also been made out…"

(Emphasis Supplied)

24. The principles governing "Fire Insurance" have been very succinctly laid down by this Court in the case of ***Orion Conmerx Pvt. Ltd. vs. National insurance Co. Ltd.*** reported in 2025 SCC OnLine 2309, wherein it was held that if there was a fire and something was on fire which ought not to be on fire and such a fire was not caused by the wilful act of the insured, then any loss attributable to fire would be covered under the policy. The relevant portions of the said judgment are reproduced herein under:

> *"....REASONING*
> *PRINCIPLES GOVERNING 'FIRE INSURANCE'*
> ***"...32.*** *Having heard learned counsel for the parties, this Court is of the view that fire insurance is a strategic tool for risk management, asset protection and economic resilience. Fire insurance policy does not prevent fire - but it cushions the financial impact when it occurs. Keeping in view the importance of the concept of fire insurance, it is important to outline the principles governing the same.*
>
> ***33. It is settled law that the contract of fire insurance is a contract to indemnify the Insured against loss by fire. The expression 'fire' signifies the cause of the loss and in order to determine whether in a particular case the loss is caused by fire, the following rules generally apply:—***
> ***a) There must be an actual fire; hence mere heating or fermentation will not be sufficient to render the insurers liable for loss occasioned thereby.***
> ***b) There must be something on fire which ought not to have been on fire.***
> ***c) There must be something in the nature of an accident, but a fire occasioned by the wilful act of a third person without the consent of the Insured, is to be regarded as accidental for the purpose of this rule. If these requisites are satisfied, any loss attributable to the fire, whether by actual burning or otherwise, is within the contract.***

> ***34.*** *The object of the contract is to protect the Insured against loss occasioned by fire. The fire must be accidental. The dictionary meaning of the expression 'accidental' is a 'happening occurring unexpectedly or by chance'. Consequently, damage from a deliberately set fire will not be covered. To carry out the investigation, therefore, beyond the cause of the loss and to cast upon the Insured the burden of establishing that the cause of the fire itself was covered by his contract, would largely defeat this object.*
>
> ***35.*** *The cause of fire, however, becomes material where the circumstances of the case are open to suspicion, and seem to indicate that it would be contrary to the principle of good faith (doctrine of uberrima fides) inherent in the contract to permit the Insured to recover. Accordingly, the cause of fire becomes material in cases where the fire is occasioned not by negligence but by the wilful act of Insured himself or of someone acting with his privity or consent. In such a case, his conduct, coupled with the making of a claim, is a fraud upon the insurers and he cannot enforce his claim against them. (See: The Law Relating to Fire Insurance by A.W. Baker Welford and W.W. Otter-Barry Fourth Edition).*
>
> ***36.*** *This Court in New India Assurance Company Limited v. Mudit Roadways, (2024) 3 SCC 193 has held, '**the precise cause of a fire**, whether attributed to a short-circuit or any alternative factor, **remains immaterial, provided the claimant is not the instigator of the fire**'. The said judgment categorically holds that the precise cause of fire is immaterial provided the Insured is not the instigator of the fire. This judgment underscores the importance of insurers' duty to act in good faith and honour its commitment to the Insured.*
>
> ***37.*** *Consequently, this Court is of the opinion that once it is established that the loss is due to fire and there is no allegation/finding of fraud or that the Insured is the instigator of the fire, the cause of fire is immaterial and it will have to be assumed and presumed that the fire is accidental and falls within the ambit and scope of fire policy…"*
>
> **(Emphasis Supplied)**

25. In light of the law laid down by this Court as discussed above, it is a settled position that if the damage is caused by fire, then the reason by which the fire took place becomes irrelevant. In

the current scenario, the fire took place in the factory of the Appellant which caused a huge loss to the Appellant. The loss occurred on account of the transformer being set ablaze and the fire could not be controlled for about 6 hours. It is also an admitted position that, on the intervening night of 01.11.2006, some miscreants entered the factory and committed burglary. It was reported in the FIR that flames were coming out of the transformer and at no stage any defense was taken that the insured caused the fire. Thus, it is now established that the loss caused to the Appellant was due to fire only and the incident of theft/ burglary merely preceded the incident of fire.

26. Additionally, in case of insurance contracts, the exclusion clause must be construed strictly and wherever there is any ambiguity between two or more clauses in the contract, it must be interpreted in favour of the insured. This court in the case of ***Texco Marketing Private Limited vs. Tata Aig General Insurance Company Limited and Others*** reported in (2023) 1 SCC 428 has held as under:

> *"…**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 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 [Union of India v. N. Murugesan.

14. *On the aforesaid principle of law, particularly with respect to the issues qua onus, burden and reading down, this Court in Shivram Chandra Jagarnath Cold Storage v. New India Assurance Co. Ltd. has held as follows : (SCC pp. 546-47, paras 19-20)*

"19. 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. In B.V. Nagaraju v. Oriental Insurance Co. Ltd., a two-Judge Bench of this Court read down an exception clause to serve the main purpose of the policy. However, this Court clarified that the breach of the exception clause was not so fundamental in nature that would have led to the repudiation of the insurance policy. In that case, the terms of the insurance policy allowed an insured vehicle to carry six workmen, excluding the driver. When the vehicle met with an accident, it was carrying nine persons apart from the driver. The insured had moved a claim for repair of the vehicle, which was rejected by the insurer.

20. Allowing the claim, this Court held thus : (B.V. Nagaraju case, SCC pp. 650-51, para 7)

'7. It is plain from the terms of the Insurance Policy that the insured vehicle was entitled to carry 6 workmen, excluding the driver. If those 6 workmen when travelling in the vehicle, are assumed not to have increased any risk from the point of view of the Insurance Company on occurring of an accident, how could those added persons be said to have contributed to the causing of it is the poser, keeping apart the load it was carrying. Here, it is nobody's case that the driver of the insured vehicle was responsible for the

accident. In fact, it was not disputed that the oncoming vehicle had collided head-on against the insured vehicle, which resulted in the damage. Merely by lifting a person or two, or even three, by the driver or the cleaner of the vehicle, without the knowledge of the owner, cannot be said to be such a fundamental breach that the owner should, in all events, be denied indemnification. The misuse of the vehicle was somewhat irregular though, but not so fundamental in nature so as to put an end to the contract, unless some factors existed which, by themselves, had gone to contribute to the causing of the accident. In the instant case, however, we find no such contributory factor. In Skandia case, this Court paved the way towards reading down the contractual clause by observing as follows : (SCC pp. 665-66, para 14)

"14. … When the option is between opting for a view which will relieve the distress and misery of the victims of accidents or their dependants on the one hand and the equally plausible view which 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 make a strictly doctrinaire approach, the very same conclusion would emerge in obeisance to the doctrine of "reading down" the exclusion clause in the light of the "main purpose" of the provision so that the "exclusion clause" does not cross swords with the "main purpose" highlighted earlier. The effort must be to harmonise the two instead of allowing the exclusion clause to snipe successfully at the main purpose. This theory which needs no support is supported by Carter's "Breach of Contract" vide para 251. To quote:

'Notwithstanding the general ability of contracting parties to agree to exclusion clauses which operate to define obligations there exists a rule, usually referred to as the "main purpose rule", which may limit the application of wide exclusion clauses defining a promisor's contractual obligations. For example, in Glynn v. Margetson & Co., AC at p. 357, Lord Halsbury, L.C. stated : (AC p. 357)

"… It seems to me that in construing this document, which is a contract of carriage between the parties, one must in the first instance look at the whole instrument and not at one part of it only. Looking at the whole instrument, and seeing what one must regard, … as its main purpose, one must reject words, indeed whole provisions, if they are inconsistent with what one assumes to be the main purpose of the contract."

Although this rule played a role in the development of the doctrine of fundamental breach, the continued validity of the rule was acknowledged when the doctrine was rejected by the House of Lords in Suisse Atlantique Societe d' Armement

Maritime S.A. v. N.V. Rotterdamsche Kolen Centrale. Accordingly, wide exclusion clauses will be read down to the extent to which they are inconsistent with the main purpose, or object of the contract…"

27. In the case of ***Shivram Chandra Jagarnath Cold Storage and Another vs. New India Assurance Company Limited and Others*** reported in (2022) 4 SCC 539, this Court has held as under:

"…18. *In a similar vein, a two-Judge Bench of this Court in Oriental Insurance Co. Ltd. v. Samayanallur Primary Agricultural Coop. Bank 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. This Court observed that a cash box cannot be classified as a "safe" within the meaning of a burglary insurance policy and the insurer was exempted from any liability arising from the theft of jewellery and cash from the cash box. 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 Sangrur Sales Corpn. v. United India Insurance Co. Ltd., a two-Judge Bench of this Court, of which one of us (D.Y. Chandrachud, J.) was a part, held that in the event two constructions are possible or if there is any ambiguity, a construction that is beneficial to the insured should be adopted consistent with the purpose of the policy.*

19. *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. In B.V. Nagaraju v. Oriental Insurance Co. Ltd., a two-Judge Bench of this Court read down an exception clause to serve the main purpose of the policy. However, this Court clarified that the breach of the exception clause was not so fundamental in nature that would have led to the repudiation of the insurance policy. In that case, the terms of the insurance policy allowed an insured vehicle to carry six workmen, excluding the driver. When the vehicle met with an accident, it was carrying nine persons apart from the driver. The*

insured had moved a claim for repair of the vehicle, which was rejected by the insurer.

20. *Allowing the claim, this Court held thus : SCC pp. 650-51, para 7)*
"7. It is plain from the terms of the Insurance Policy that the insured vehicle was entitled to carry 6 workmen, excluding the driver. If those 6 workmen when travelling in the vehicle, are assumed not to have increased any risk from the point of view of the Insurance Company on occurring of an accident, how could those added persons be said to have contributed to the causing of it is the poser, keeping apart the load it was carrying. Here, it is nobody's case that the driver of the insured vehicle was responsible for the accident. In fact, it was not disputed that the oncoming vehicle had collided head-on against the insured vehicle, which resulted in the damage. Merely by lifting a person or two, or even three, by the driver or the cleaner of the vehicle, without the knowledge of the owner, cannot be said to be such a fundamental breach that the owner should, in all events, be denied indemnification. The misuse of the vehicle was somewhat irregular though, but not so fundamental in nature so as to put an end to the contract, unless some factors existed which, by themselves, had gone to contribute to the causing of the accident. In the instant case, however, we find no such contributory factor. In Skandia case [Skandia Insurance Co. Ltd. v. Kokilaben Chandravadan, (1987) 2 SCC 654] this Court paved the way towards reading down the contractual clause by observing as follows : (SCC pp. 665-66, para 14)
'14. … When the option is between opting for a view which will relieve the distress and misery of the victims of accidents or their dependants on the one hand and the equally plausible view which 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 make a strictly doctrinaire approach, the very same conclusion would emerge in obeisance to the doctrine of "reading down" the exclusion clause in the light of the "main purpose" of the provision so that the "exclusion clause" does not cross swords with the "main purpose" highlighted earlier. The effort must be to harmonise the two instead of allowing the exclusion clause to snipe successfully at the main purpose. The theory which needs no support is supported by Carter's "Breach of Contract" vide para 251. To quote:
"Notwithstanding the general ability of contracting parties to agree to exclusion clauses which operate to define obligations there exists a rule, usually referred to as the

> *"main purpose rule", which may limit the application of wide exclusion clauses defining a promisor's contractual obligations. For example, in Glynn v. Margetson & Co. [Glynn v. Margetson & Co., 1893 AC 351 (HL)] , AC at p. 357, Lord Halsbury, L.C. stated : (AC p. 357)*
> *'… It seems to me that in construing this document, which is a contract of carriage between the parties, one must in the first instance look at the whole instrument and not at one part of it only. Looking at the whole instrument, and seeing what one must regard … as its main purpose, one must reject words, indeed whole provisions, if they are inconsistent with what one assumes to be the main purpose of the contract.'*
> *Although this rule played a role in the development of the doctrine of fundamental breach, the continued validity of the rule was acknowledged when the doctrine was rejected by the House of Lords in Suisse Atlantique Societe d' Armement Maritime S.A. v. N.V. Rotterdamsche Kolen Centrale [Suisse Atlantique Societe d' Armement Maritime S.A. v. N.V. Rotterdamsche Kolen Centrale, (1967) 1 AC 361 : (1966) 2 WLR 944 (HL)] . Accordingly, wide exclusion clauses will be read down to the extent to which they are inconsistent with the main purpose, or object of the contract…"*

28. In the case at hand, in terms of the policy, the burglary/theft is not an exclusion under the specified peril "Fire". Even, the general exclusions to the policy do not cover theft which precedes the insured peril as an exclusion and the said exclusion is only provided under the RSMD clause. It is a trite law that the exclusions in the contract for insurance must be read strictly and, therefore, the exclusion provided under the RSMD clause would not oust the liability of the insurer when the loss or damage is attributable to the peril of fire which has its independent exclusions.

29. In view of the above discussion, we are of the view that there is no justification for the Respondent to repudiate the claim of the Appellant and the NCDRC had erred in not rectifying the mistake and to reject the claim.

30. Consequentially, the appeal is allowed and the letter dated 04.01.2008, sent by the Respondent repudiating the claim of the Appellant and impugned judgment, are set aside and matter is remitted back to the NCDRC to assess the loss pursuant to the claim filed by the Appellant. We further expect that the NCDRC must decide the issue as expeditiously as possible, and in any case, not later than six months from the date of receiving the certified copy of this judgment.

31. All pending application(s), if any, shall stand disposed of.

..... J.
(J.K. MAHESHWARI)

..... J.
(VIJAY BISHNOI)

NEW DELHI,
Dated: 16th DECEMBER, 2025