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Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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ISSN: 2582-6433

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Assistant professor of Law

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Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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UNITED INDIA INSURANCE CO. LTD V. M/S. HARCHAND RAI CHANDAN LAL (AIR 2004 SC 4794)

AUTHORED BY - TANISHKA JAIN

INTRODUCTION

In a person's life, a lot of unforeseen things might happen that could harm both their lives and their possessions. This prompts a desire to shield oneself from the losses brought on by such occurrences. This is the underlying idea of insurance.

Any company, organisation, or partnership that can be dissolved under the Companies Act of 1956 or the Indian Partnership Act of 1932 is referred to as a "Insurance Company" under Section 2(8) of the Insurance Act of 1938. An "insurer" is defined as any individual, group of individuals, or corporated organisation that conducts an insurance business under Section 2(9) of the Act.

A basic insurance contract is a legal agreement between two parties, one of whom is referred to as the "insurer" and the other as the "insured." In this kind of agreement, the insurer guarantees the insured party that, in exchange for payment of a sum of money known as the "premium," he would protect or hold him harmless against damages brought on by a certain contingent occurrence. A typical definition of an insurer is an insurance provider, and a policyholder is the individual who purchases insurance by paying a premium. The insurer or insurance business promotes the insurance policy via an insurance contract, which is an invitation to offer. The insured then approaches the insurer with an offer after viewing the invitation to offer. It becomes into an insurance contract after the insurer agrees. In this article researcher will analyse and critically examine the case of "*United India Insurance Co. Ltd. v. Harchand Rai Chandan Lal.*[1]" This case raises important questions about the scope of an insurer's liability and the interpretation of insurance policy terms in cases of theft and

[1] AIR 2004 SC 4794.

ISSN: 2582-6433

burglary and interpretation of insurance document. This case comment article will examine the facts of the case, the legal issues that arose, arguments of the parties, the implications of the judgment for the insurance industry in India.

FACTS OF THE CASE

In the present case the respondent purchased a policy from the appellant business for Rs. 7 lacs against burglary and/or house breaking. The following were the policy's necessary clauses:

"Subject to the terms and circumstances set forth herein and otherwise specified herein, THE COMPANY HEREBY AGREES that if,

(a) The property indicated below or any portion of it is LOST or DAMAGED as a result of a BURGLARY and/or HOUSE BREAKING or

(b) Any damage to the property resulting from a BURGLARY, HOUSE BREAKING, or attempt at either will be repaired."

The respondent kept his stock of food grains in "Godown No. 48, Srinagar Colony, Bharat Nagar, New Delhi", during the policy's valid period. One of the respondent's partners discovered that 197 bags of gwar had been stolen. An F.I.R. was filed at "Police Station Sarai Rohilla" in accordance with "Section 380 of the Indian penal code[2]".

Due to the aforementioned loss being caused by theft, the respondent filed a claim against the appellant corporation under the aforementioned policy. The appellant business rejected the respondent's claim. In order to file a claim for the loss of 197 bags of gwar, the respondent went to the "Consumer Disputes Redressal Forum-II (District Forum)".

The appellant firm denied the claim and asserted that the insurance coverage does not cover theft and covers only burglary. The District Forum overruled the objection, determined that stealing is included in the definition of burglary, and ordered the appellant company to pay the respondent's claim within two months, plus interest at the rate of 15% per year. They also awarded costs in the amount of Rs. 1,000. The appellant corporation filed an appeal with the State Consumer Disputes Redressal Commission in protest of the aforementioned District Forum judgement. The State Commission also

[2] Sec. 380 of Indian Penal Code, 1860.

ISSN: 2582-6433

upheld the respondent's claim, holding that, despite how the policy defines the terms "burglary and/or housebreaking," burglary clearly involves theft.

The National Consumer Disputes Redressal Commission's ruling in the matter of "*National Insurance Company Ltd. v. Public Type College*[3]" was also cited and taken into account. Hence, the appeal submitted by the appellant corporation was denied by the State Commission. A revision was submitted to the National Consumer Disputes Redressal Commission in response to the State Commission's aforementioned order, which was objected to. By its contested order, the National Commission upheld the respondent's claim and rejected revision. Thus, the current special leave appeal.

ISSUES BEFORE THE COURT

- Whether theft would be included in Burgalary even if there was no violence or force used?
- The issue at hand is whether or not the appellant company's rejection of the respondent's claim was warranted under the policy.

ARGUMENT OF THE APPELANT (INSURANCE COMPANY)

- The counsel for the appellant argued that the claim was disputed because no forced or violent entry was made into the godown, and that theft is not covered by the insurance policy.
- The counsel for respondent mentioned that such interpretation was made in Halsbury's Laws of England. It mentions that in order for the insurance company to be held responsible for a burglary , there must be prior use of force or violence.
- It submitted that they rely on the case of "*George and the Goldsmiths and General Burglary Insurance Association, Limited*[4]*"* where the court ruled that a policy for loss or damage by burglary and housebreaking did not cover a theft that occurred when a shop's front door was shut but not locked, and the thief was able to enter by simply turning the handle. It was argued that any amount of

[3] II (2001) CPJ 26(NC).
[4] [1899] 1 Q.B.595.

ISSN: 2582-6433

force, no matter how slight, was enough to constitute an entry within the meaning of the policy and that the thief's subsequent actions, such as prising off an iron plate to access valuables, satisfied the requirement for force. Both the prepositions were rejected by the court and it held held that the plain reading of the policy required violence as a condition precedent

ARGUMENT OF THE RESPONDENT (INSURED)

- The counsel for respondent argued before the court that the basic definition of burglary cannot be taken into consideration as theft occurred irrespective of force.
- Counsel for respondent also was of the view that it can be reasonably expected that the plaintiff desired and demanded insurance coverage for theft, and the insurance company did insure the property against theft by labelling the policy "Burglary and House Breaking", which we can do in these proceedings if we draw on our understanding of what has happened ordinarily.
- The counsel also citated various cases to support this contention. It relied on "*National Insurance Co. Ltd. vs Public Type College*[5]" in which national consumer dispute redressal reiterated its view that theft would be considered within the meaning of Burglary in the policy
- It also argued that the definition written in policy cannot be said to be retired word by word and what is prevalent in common course should be taken into consideration.

JUDGEMENT OF THE COURT

The court ruled in this case of "*United Insurance Co. Ltd v. M/S Harchand Rai Chandan Lal*[6]" that all parties must abide by the definition stated in the policy. Both parties are obligated by the conditions of the policy, which constitutes a contract between them. According to the meaning of the term "burglary," every theft must be preceded by violence, which means that access into the premises to commit theft must involve force, assault, or a threat to the insurer, his employees, or members of his family.Thus, using "force and violence" is a pre requirement for burglary and housebreaking Asserting its view court reiterated the opinions of lordships in the case of "*Oriental Insurance Co. Ltd. v. Samayanallur Primary Agricultural Co-op. Bank*[7]", in which the interpretation of a burglary

[5] Supra,3.
[6] Supra,1.
[7] AIR 2000 87 SC 10.

ISSN: 2582-6433

insurance policy was in question. The bank had two insurance policies with Oriental Insurance Company Ltd., one for cash insurance and the other for burglary insurance. All valuables were to be kept locked up in a safe that could withstand burglary according to the applicable requirements of the burglary insurance contract. The issue emerged during a break-in when jewels were taken from the cashier's cash box, which wasn't a safe. Lordships in this case clearly ruled that the insurance policy's terms must be interpreted solely in light of those provisions; no artificially fantastical interpretation of its language is permitted.

Court also mentioned the judgement in the case of "*Oriental Insurance Co. Ltd. v. Sony Cheriyan*[8]" where their lordships mentioned that, "A contract between the parties is represented by the insurance policy between the insurer and the insured. The provisions of the agreement must be strictly interpreted to ascertain the amount of the insurer's liability because the insurer commits to compensating the loss incurred by the insured as a result of risks covered by the insurance policy. More than what the insurance policy covers cannot be claimed by the insured."
In the end, the court upheld the appeal and overturned the decision of the State Commission & District Forum and the "National Consumer Disputes Redressal Commission, New Delhi".

CRITICAL ANALYSIS OF THE CASE

Insurance policies are meant to provide protection to the insured against unforeseen events, and the policy language needs to be interpreted in the insured's favour. It is the responsibility of the insurance company to clearly define the terms of the policy and communicate the same to the insured. If the policy language is vague or ambiguous, this needs to be interpreted in the insured's favour.

In my opinion, the court was not correct in its decision to hold the insurance company innocent and not making it compensate the respondent for the said mentioned policy. I believe that in common pursuance burglary and theft are often used interchangeably, and it is not reasonable to expect a common person to understand the technical difference between the two to segregate the two terms and deny coverage for theft lead to grave injustice to the insured who might not have understood the technicality of the insurance terms.

[8] (1999) 6 SCC 451.

ISSN: 2582-6433

While the judgment of the court is based on sound legal principles and is in line with the policy objectives of insurance law, it can be argued that the court's decision puts a significant burden on insured and undermines the very purpose of insurance.

After reviewing and analysing the facts and circumstances my views go in consonance with the decision of National consumer forum in case of "*National Insurance Co. Ltd. v. Public Type College*[9]" in which common pursuance and interest of the insured were taken care and not on the literal meaning of the policy clause.

[9] II (2001) CPJ 26(NC).