

PETITIONER:
M/S. NATIONAL INSURANCE CO. LTD.

Vs.

RESPONDENT:
SMT. JIJUBHAI NATHUJI DABHI & ORS.

DATE OF JUDGMENT: 20/11/1996

BENCH:
K. RAMASWAMY, G.T. NANAVALI, K. VENKATASWAMI

ACT:

HEADNOTE:

JUDGMENT: THE 20TH DAY OF NOVEMBER, 1996

Present;

Hon'ble Mr. Justice K.Ramaswamy
Hon'ble Mr. Justice G.T.Nanavati
Hon'ble Mr. Justice K. Venkataswami

Jitender Sharma, Sr. Adv., Mrs. Gunwant Dara, Ms.
Minakshi Vij. P.Gaur, Advs. with him for the appellant
H.A.Raichura, Adv. for the respondent in C.A.No.2671/91

O R D E R

The following order of the Court was delivered:

This appeal by special leave is confined to the question as to whether the accident had occurred during the operation of the insurance policy in controversy. The admitted position is that the renewal of the insurance was effected as under:

Address; Jal Apartment,Pd.
Vile Parle (N) Bombay 5.

It is hereby understood and agreed that the renewal premium of Rs. 1307/- only under this Policy having been paid on 25.10.1983 and not within the renewal date viz. 14.10.1983 the Insurance by this Policy is suspended from 14.10.1983 (4 p.m) to 24.10.1983.

Further, it is declared and agreed that the cover under this Policy is reinstated and renewed for a further period of twelve months from 25.10.1983 to 24.10.1984 at a premium of Rs.1307/-.

The Tribunal also had recorded, as a fact, that on October 25, 1983 at 4.00 p.m., the contract of renewal had come into force and it would be operative upto October 24, 1984. The Tribunal also recorded, as a fact, that the accident had occurred on October 25, 1983 at 11.14 a.m., that is, before the renewal of the contract. Under these circumstances, it would be clear that the accident had occurred when the renewal had not taken effect.

This Court in New India Assurance Co. vs. Ram Dayal

[(1990) 2 SCR 570] had held that in the absence of any specific time mentioned in that behalf, that contract would be operative from the mid-night of the day be operation of provisions of the General Clauses Act. But in view of the special contract mentioned in the insurance policy, namely, it would be operative from 4.00 p.m. on October 25, 1983 and the accident had occurred earlier thereto, the insurance coverage would not enable the claimant to seek recovery of the amount from the appellant-Company.

The appeal is accordingly allowed only to the above extent. In respect of any claim against the owner, the respondent is at liberty to have it recovered. No costs.

JUDIS