IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7292 OF 2008
(Arising out of S.L.P. (C) No.18765 of 2007)

Oriental Insurance Co.Ltd. ...Appellant(s)

Versus

M/s. Kala Emporium Pvt. Ltd. ...Respondent(s)

O R D E R

1. Leave granted.

2. By an order dated 12th December, 2001, passed in Complaint No.17 of 2000, the State Consumer Disputes Redressal Commission, Chandigarh, [for short, `the State Commission'] set aside the repudiation of the respondent's claim by the appellant-Insurance Company and directed it to assess the compensation payable to the former. The appellant challenged that order by filing an appeal before the National Consumer Disputes Redressal Commission [for short, `the National Commission'], but the respondent did not do so. The National Commission did not advert to the merits of the case, but, by simply placing reliance upon two letters dated 11th June, 1999 and 25th November, 1999, allegedly written by the respondent to the officers of the appellant, concluded that the Insurance Company had agreed to settle the matter for a

sum of Rs.6,41,908/- and, accordingly, set aside the order passed by the State Commission and directed the appellant to pay a sum of Rs.6,41,908/- to the respondent with interest @ 9 per cent per annum from the date of filing the complaint.

3. Feeling aggrieved by the order of the National Commission, the appellant has preferred this appeal by special leave.

4. We have heard learned counsel for the parties.

5. Undisputedly, the respondent did not challenge the order of the State Commission. Therefore, in the appeal preferred by the Insurance Company, the National Commission was not at all justified in directing payment of compensation by relying upon two letters dated 11th June, 1999 and 25th November, 1999 said to have been written by the respondent, incorporating the factum of the alleged mutual settlement. Indeed, no evidence was produced by the respondent either before the State Commission or the National Commission to show that the Insurance Company had agreed to pay the sum of Rs.6,41,908/- by way of mutual settlement. In this view of the matter, the direction given by the National Commission for payment of compensation to the respondent cannot be sustained.

6. Accordingly, the appeal is allowed, impugned order passed by the National Commission is set aside and the one rendered by the State Commission is restored. No costs.

......................J.
[B.N. AGRAWAL]

......................J.
[G.S. SINGHVI]

New Delhi,
December 15, 2008.