

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 4 OF 2007

1. GUJARAT OLEO CHEMICALS LTD.
D-315, Crystal Plaza Link Road, Andheri (West)
MUMBAI - 400 053.

.....Complainant(s)

Versus

1. THE NEW INDIA ASSURANCE CO. LTD. AND ORS.
87, Mahatma Gandhi Road,
MUMBAI - 400 001

2. THE NEW INDIA ASSURANCE CO. LTD.
INDRAPRASTHA SHOPPING ARCADE OLD N.H.NO-8,
NEAR HOTEL MAHASHIV ANKLESHWAR,
GUJARAT.

3. THE NEW INDIA ASSURANCE CO. LTD.
BHARUCH DIVISIONAL OFFICE-I, J.K.AMIN
CHAMBERS, STATION ROAD,
BHARUCH - 392 001.

4. THE NEW INDIA ASSRUANCE CO. LTD.
BHARUCH DIVISIONAL OFFICE-I, J.K. AMIN
CHAMBERS, STATION ROAD,
BHARUCH- 392 001

5. THE NEW INDIA ASSURANCE CO. LTD.
BARODA REGIONAL OFFICE, 9th FLOOR, SURAJ
PLAZA-II, SAYAJIGUNJ
VADODRA - 390 005.

6. ANDHRA BANK
116, Saurabh Andheri-Kurla Road,Branch, Andheri (East)
MUMBAI -400 093.

7. TECHNOLOGY DEVELOPMENT BOARD,
Sharad Kumar Shrivastava, Asstt. Legal Adviser, Office at Wing
-A, Ground Floor, Vishwakarma Bhawan, Shaheed Jeet Singh
Marg,
NW DELHI - 110 016.

8. M/S. STRESSED ASSETS STABILIZATION FUND

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.....Opp.Party(s)

BEFORE:

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA,PRESIDING
MEMBER**

HON'BLE BHARATKUMAR PANDYA,MEMBER

FOR THE COMPLAINANT : MS. SWECHCHA MISHRA, ADVOCATE

FOR THE OPP. PARTY : FOR THE OPPOSITE PARTIES 1- 5 : MR. KARTIK
BRUNDAVAN, ADVOCATE

FOR THE OPPOSITE PARTY-6 : MR. UMESH PRASAD,
ADVOCATE

FOR THE OPPOSITE PARTY-7 : MR. LAKSHAY SAWHNEY,
ADVOCATE

FOR THE OPPOSITE PARTY-8 : MR. NOEL CHEROBIN,
ADVOCATE

Dated : 06 December 2023

ORDER

1. Heard Ms. Swechcha Mishra, Advocate for the complainant, Mr. Kartik Brundavan, Advocate, for opposite parties-1 to 5, Mr. Umesh Prasad, Advocate for opposite party-6, Mr. Lakshay Sawhney, Advocate for opposite party-7 and Mr. Noel Cherobin, Advocate for opposite party No.8.
2. Gujarat Oleo Chemicals Ltd. has filed above complaint for directing the New India Assurance Company Limited (opposite party-1) to (a) pay Rs.52112725/- with interest @ 10% p.a. from July, 2005 till the date of actual payment; (b) pay Rs.521127/- as exemplary damages; (c) award litigation cost; (d) and any other relief which is deemed fit and appropriate in the facts of the case.
3. It has been stated that Gujarat Oleo Chemicals Ltd. was a company registered under the Companies Act and engaged in manufacturing of chemical products and derivatives for commercial purpose. The complainant has its factory at plot No.631-639, GIDC, Panoli, Ankleshwar. New India Assurance Company Limited is a public insurance company. The complainant has obtained Standard Fire and Special Perils (Material Damage) Policy from New India Assurance Company Limited for coverage of Rs.2.55 crores for building, Rs.17.35 crores for plant & machinery and Rs.13.60 crores for stock. On 24.02.2005 at about 4.40 am the fire brokedown in the factory premises of the complainant. The complainant informed the insurer about the fire incident on 25.02.2005. The insurance company appointed Cunningham & Lindsey International Pvt. Ltd. as well as J. Basheer & Associates as surveyors for survey and assessment of the loss. After survey, the surveyor submitted a preliminary survey report dated 16.11.2005. Although the complainant filed a detailed objection to the report dated 16.11.2005, but opposite party-1 repudiated the claim by letter dated 29.03.2006. The complainant engaged an independent surveyor who also assessed the loss of Rs.2713424/- for building, Rs.4557398/- for plant & machinery and Rs.44841899/- for stock (total Rs.52112725/-). Thereafter this complaint was filed.
4. This Commission by order dated 04.04.2008 directed the insurance company to deposit Rs.24306000/- with interest @ 10% p.a. from 01.02.2006. In compliance of the aforesaid order, the insurance company has deposited the amount. Thereafter, Andhra Bank (opposite party-6) got itself impleaded and moved MA/176/2008 for release of the amount deposited by the insurer. This Commission, by order dated 22.01.2009 directed to release the amount deposited by the insurance company alongwith accrued benefit in favour of Andhra Bank. Thereafter, Technology Development Board & Stressed Assessment Stabilisation Fund also got impleaded as opposite parties- 7 & 8 in the complaint as they were also secured creditors of the complainant.

5. In compliance of the direction of this Commission, joint survey report dated 22.02.2017 was submitted in which the loss was assessed to Rs.26010785/-. In the meantime, liquidation proceeding was started against the complainant before the National Company Law Tribunal on 17.01.2018 in which Official Liquidator was appointed. When the case was taken up on 26.07.2019, the counsel for the Official Liquidator stated that the complainant is ready to accept the amount of Rs.26010758/- as assessed in the joint survey report dated 22.02.2017. In view of the statement of the counsel for the Official Liquidator, this Commission has directed the counsel for the insurance company to take instruction from the insurer that the aforesaid amount be deposited alongwith appropriate interest. On 19.08.2019 when the case was taken up the counsel for the insurance company on instruction informed that the insurance company is willing to deposit Rs.26010785/- alongwith appropriate interest in full and final settlement of its claim adjusting the amount already deposited on 04.04.2008. This Commission in the order dated 19.08.2019 gave an opportunity to the parties to settle the matter on the proposal given by the insurance company. Again this Commission in the order dated 19.11.2019 observed that unless contrary directions are given by National Company Law Tribunal to the Official Liquidator the complaint would be disposed of in terms of the offer given by the insurance company. Thereafter, the Official Liquidator has filed his affidavit dated 28.04.2021 accepting the amount as well as the manner for apportionment of the amount between opposite parties-6 to 8.

11. Since the terms of settlement have now been accepted by the Official Liquidator, we dispose of this complaint directing the insurance company to deposit balance amount of Rs.1704758/- with interest @ 10% p.a. from 01.02.2006 till the date of deposit with the Official Liquidator within a period of two months. Andhra Bank shall also remit the amount of Rs.30787681/- as released in its favour vide order dated 22.01.2009 alongwith interest accrued on it @ 10% p.a. from 22.01.2009 to the Official Liquidator who shall apportion the total amount between opposite parties-6 to 8 in the proportion as mentioned in his affidavit.

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RAM SURAT RAM MAURYA
PRESIDING MEMBER

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BHARATKUMAR PANDYA
MEMBER