

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW
DELHI**

FIRST APPEAL NO. 272 OF 2015

(Against the Order dated 04/03/2015 in Complaint No. 33/2007 of the State
Commission Uttar Pradesh)

M/s Khanna Polyrib Pvt. Ltd. ... Appellant

Versus

New India Assurance Co. Ltd. & Anr. ... Respondents

FIRST APPEAL NO. 321 OF 2015

(Against the Order dated 04/03/2015 in Complaint No. 33/2007 of the State
Commission Uttar Pradesh)

WITH

IA/2737-2738/2015

(For stay, c/delay)

New India Assurance Co. Ltd. ... Appellant

Versus

M/s Khanna Polyrib Pvt. Ltd. ... Respondent

BEFORE:

**HON'BLE MR. JUSTICE A.P. SAHI, PRESIDENT
HON'BLE MR. BHARATKUMAR PANDYA, MEMBER**

For Khanna Polyrib Pvt. Ltd. : Mr. Lav Kumar Agrawal, Advocate

For New India Ass. Co. Ltd. & Anr. : Mr. J.P.N. Shahi, Advocate

PRONOUNCED ON : 16.10.2025

ORDER

1. These two appeals arise out of a common order passed by the SCDRC, Uttar Pradesh, Lucknow in CC/33/2007 decided on 04.03.2015. The complaint has been partly allowed in favour of the complainant, but the complainant is aggrieved by the low quantum awarded has therefore filed FA/272/2015 for enhancement of the claim. The Insurance Company is aggrieved by the entire

order and has prayed for setting aside the same in the appeal filed by it being FA/321/2015.

2. Both the appeals were entertained and the parties to the litigation are duly represented, Mr. Lav Kumar Agrawal for the complainant, M/s. Khanna Polyrib Private Limited and Mr. J. P. N. Shahi, learned counsel for the Insurance Company.
3. The complainant acquired a policy with a coverage of loss of plant, building, machinery and stocks, generator set in respect of a manufacturing unit set up for the production of Plastic Sheets in the Industrial area of Unnao, Uttar Pradesh. The policy is a Standard Fire and Special Perils Policy, the duration whereof was from 04.04.2005 to 03.04.2006. The insurance policy that is on record indicates the coverage for insurance for building to the tune of Rs.15,50,000/-, for plant and machinery and accessories to the tune of Rs.88,02,000/- and for the generator set to the tune of Rs.7,35,000/-.
4. Fortunately on 17.09.2005, during the duration of the policy a fire took place in the unit, the same was intimated to the Insurance Company and a surveyor, Mr. Vinod Kumar Lamba was appointed to carry out the survey. The surveyor reached on the spot and commenced his survey on 18.09.2005 visiting the complainant's site on three occasions.
5. During the process, the complainant tendered his documents and the surveyor submitted his report on 26.06.2006, which is extracted herein under:

Ref. No.5926

26.06.2006

The Sr. Branch Manager,
The New India Ass. Co. Ltd.
B.O. 202, Birhana Road,
Kanpur.

Subj:- Survey and Assessment Report on Claimed Fire Losses of
A/c M/s Khanna Polyribs (P) Ltd., Akrapur Industrial Area, Unnao.
Under Pol. No.

Ref : 5926/06

1) INSURANCE PARTICULARS

- a) INSUREES : M/s Khanna Polyribs (P) Ltd.
Off : 24/168, Birhana Road, Kanpur
Works : Akrapur, Unnao
420202/11/05/00007
- b) POLICY NO. : 420202/11/05/00007
- c) PERIOD OF INSURANCE : 04.04.2005 to 03.04.2006
- d) SUM INSURED : Total Sum Insured - 11052000.00 as under
Rs. 1550000.00 on building
Rs. 8802000.00 on Plant & M/cs
Rs. 700000.00 on Gen. Set
- e) Type of Policy : It is a standard fire and special perils policy
(Policy Copy enclosed at Annex - I)

THE SUBJECT MATTER

The subject matter of loss & claim is plastic extruder plant which was purchased and installed in Feb. 2001. The specifications of the plant are as under.

- 120 mm extruder with D.C. Motor reduction gear, box, drive control panel,
- Temperature control panel and hopper loader,
- Hydraulic Screen Changer with adaptor,
- Sheet Die (Coat hanger type) 1350 mm
- Additional
- Calendar unit
- Preheating and cooling unit.
- Guide Roller conveyor
- Take off units
- Longitudinal cutter
- Masking unit
- Temperature control Panel for T Die and calendar unit
- D.C. driver control panels for D.C. drivers

The complete unit was purchased in two parts vide following invoice / proforma invoice.

Inv. No. 198 dt. 16.02.2001 of J.P. Ind.

Proforma Inv. No. NIL dt. 09.01.2001 of J.P. Ind. Both the documents are enclosed at Annex - II and III respectively.

THE INCIDENT

- a) Date & Time of Loss : At about 8.30 to 9.00 PM on 17th Sept. 2005
18 Sept. 2005
- b) Date of Deputation : 18 Sept. 2005
- c) Date of Conducting Survey : 18.09.2005 and onwards on 3 occasions.
- d) Date of Submission of documents : 20.07.2006 (Claim form enclosed at Annex - 4)

SURVEY DETAILS

Acting upon the instruction received from the competent authority the factory was visited with Sh. Sameer Saxena, Sr. Branch Manager & Sh. Kuldeep Singh, A.O. on 18.09.2005.

Thorough survey was conducted and photographs were taken showing damaged M/C and parts.

The insured were asked to carry out repairs. The factory was visited twice to inspect the repairs in between.

The factory was finally visited after repairs were completed to check the M/C in working condition and also to check the salvage.

Here it is not out of place to mention that insured were reminded several times to submit the required documents vide our letters dt. 18.09.2005, 04.11.2005; 18.07.2006, 20.04.2006 and 16.05.2006.

Although copies of all the letters were marked to insurers also, however, copies of all above letters can be produced on demand.

Now that the documents have been received, the findings have been compiled as under:

THE INSURED & THEIR ACTIVITIES

The insured M/s Khanna Polyrib (P) Ltd., are engaged in manufacturing of plastic sheets for industrial purposes, the strength of the sheet is at par with metallic sheet. On top of its strength and longevity these sheets are acid proof and rust proof, hence are in much demand for certain industries.

The extrusion plant was purchased and installed in Feb. 2003.

The construction of the shed (where the plant is installed) conforms to class-1 by all standards, as the walls are made of burnt bricks, set in cement mortar, having cement plastering on both sides. The roof is made up of G.I. 7 A.C. sheets on angle perkins and trusses.

The extrusion plant is grouted on C.C. flooring.

INCIDENT LEADING TO FIRE AND CLAIM

As reported a fire took place due to short circuiting, followed by sparking from a light point near the plant and engulfed the whole unit in no time.

This is as per the claim form enclosed herewith at Annex 4.

Here it is not out of place to mention that the plant was lying closed at the time of fire incident because it was holiday on 17 Sept. 2005.

The incident of fire occurrence was flashed in the local news papers the next. A copy of paper cutting is also enclosed Annex 5.

METHODS ADOPTED TO EXTINGUISH THE FIRE

On noticing the fire the guards and securities staff of the factory rushed with water buckets, extinguishers sand and mud to extinguish the fire.

In the meantime they also informed the fire brigade authorities at Unnao and owners of the mill at Kanpur.

Statement of two guards Sh. Suresh Bajpai and Sh. Ram Naresn Yadav are enclosed herewith at Annex 6 and 7 respectively.

In the meantime fire engines from Unnao fire brigade arrived at the spot and extinguished the fire, thus saving a devastating loss which would have occurred otherwise. Fire brigades report is also enclosed herewith at Annex 8.

Contd. .3.

DESCRIPTION OF DAMAGES

Due to the fire so originated, a major portion of extrusion plant got damaged very badly. To be more precise, the following items of extrusion plant got damaged very badly.

1. 14 Nos. Calibrating rolls
2. 6 Nos. Solenoid Valves
3. P.C. Chilling Plant
4. 2 Nos. Gear Boxes
5. Control Panel
6. Bearings - All
7. 6 Nos. Motors
8. V- Belts - All
9. Hydraulic Pipes - All
10. Electrical Items
11. Oil Seals
12. Misc hardware items

ASSESSMENT OF LOSS

Initially the insured had submitted estimated loss to the tune of Rs. 38.85 Lacs as detailed in Annex - 9.

Each claimed items was thoroughly checked for quantities and rates, and items which were not damaged or were repairable at negligible cost, were disallowed.

Finally the insured submitted amount of loss for Rs. 2308688.00 as per Annex - 10 enclosed. These details are on actual basis i.e. Money spent by the insured on repairs / replacement.

The losses have been assessed and compiled as under, after comparing the same with losses claimed.

Sl. No.	Description of Loss	Claimed Amount	Allowed Amount
1	Calibrating Rolls	473240.00	473240.00
2	Solenoid Valves	27219.00	27219.00
3	PLL of Chilling Plant	28756.00	28756.00
4	Gear Box	87436.00	87436.00
		6350.00	6350.00
5	Welding Rods	4132.00	NIL
		435.00	
		3936.00	
		7694.00	
6	Control Panel	82650.00	82650.00
7	Bearings	19372.00	50290.00
		13776.00	
		1415.00	
		2648.00	
		9131.00	
		739.00	
		1091.00	
		2118.00	
8	Motors	17862.00	32680.00
		14818.00	

9	V-Belts	1036.00 601.00 486.00	2123.00
10	Hydraulic Pipe & Fittings	84191.00	84191.00
11	Electrical Items	35633.00	35633.00
12	Steel Items (Rounds/ Angles)	15555.00	15555.00
13	Steel & MS Tubes	18174.00	NIL
14	Oil Seats	18415.00	18415.00
15	Screws / Bolts / Nuts	9875.00	9875.00
16	Misc Items	135021.00	135021.00
17	Repairs Rotors / Shafts / Pumps	250705.00	250705.00
18	Other Plant & M/c Items	192250.00	192250.00
19	Air Cyl. Gas	6742.00 3680.00	6742.00 2000.00
20	Freight & Cartage	30429.00	NIL
21	Inspection Fee	9637.00	0.00
22	J.P. Ind M/c Parts	13676.00	13676.00
23	Durawell Fluid Control (Parts)	11529.00	11529.00
24	Maxwell Auto Temp Control (Units)	30140.00	30140.00
25	Temp Control Panels	172677.00	172677.00
26	Repairs Charges to Advance Techno System	11020.00	11020.00
27	Repairs Charges Paid to Advance Techno System	2755.00	2755.00
28	Repairs Charges Paid to Sh Ambay Traders	11984.00	11984.00
29	Civil Work Labour Charges Goodwill	10350.00 42285.00 2158.00	NIL
30	Estimates a) Embossing Rolls b) Painting Job c) Casting Job	240000.00 105000.00 35000.00	NIL 10000.00 NIL
		2308688.00	1817399.00

BASIS OF ASSESSMENT

- Only those items have been allowed which were found badly damaged and unrepairable.
- Welding rods amounting to Rs. 12487.00 have been disallowed because these were lying near the M/c at the time of fire.
- Steel and MS Tubes amounting to Rs. 18474.00 have been disallowed because this structure has now been installed further safety of the M/c
- Freight and cartage amounting to Rs. 30429.00 have been disallowed because these have not been found insured
- Inspection fee amounting to Rs. 9637.00 have been disallowed because these are not payable under the fire policy
- Civil work amounting to Rs. 10350.00 + 42285.00 + 2158.00 have been disallowed because it is not included in the cost of M/c, hence uninsured.
- Cost of embossing rolls amounting to Rs. 240000.00 has been disallowed because embossing rolls were lying near the M/c as spares.

Contd. .5.

6. The surveyor assessed a net amount of loss suffered by the complainant to the tune of Rs.8,48,700/-.
7. It seems that the complainant was not satisfied with the survey report and he therefore registered a complaint with the Insurance Company, who in turn appointed Mr. R. C. Bajpayee, Insurance Fraud Investigator to submit his report.
8. According to the complainant, the said investigator was not a qualified surveyor nor was he authorised to conduct any survey and he very casually reduced the rate of depreciation to 7.5% that was fixed by the surveyor @ 10% p. a. Mr. Agrawal submits that neither was there any basis for applying an annual depreciation of 10% nor was there any justification or any basis for the said percentage reduced to 7.5% by the investigator.
9. As a result of this reduction in the rate of depreciation, the amount reflected by the investigator was Rs.10,65,478/-. Still the Insurance Company did not make any payments.
10. The claim set forth by the complainant before the Insurance Company was for Rs.38,85,000/-. It was also alleged by the complainant that he had taken a term loan from the Bank and he was regularly suffering losses as he had to pay interest on the loan amount to the tune of 16.25%. The loss had occurred on account of the fire and in spite of repeated requests, the claim was neither settled nor any payments made. It was the case of the Insurance Company that they were prepared to pay the amount as was calculated by the surveyor, but the same was not acceptable to the complainant, who filed CC/33/2007,

before the State Commission alleging deficiency in service on the part of the Insurance Company.

11. The Insurance Company dispatched a cheque dated 20.07.2007, to the complainant for a sum of Rs.10,65,478/-, but the complainant returned back the same as the said amount was not acceptable as a settlement for the claim. It was alleged by the complainant that there was no basis for the said calculation. This cheque had been dispatched after the filing of the complainant on 16.06.2007. However, in the complaint, the claim was raised is for Rs.23,08,688.25 paise, coupled with Rs.5,00,000/- as compensation for harassment and 18% interest on the said amount to the tune of Rs.5,62,865.54 paise and an additional amount of 18% interest on the said amount till the date of disposal of the complaint.
12. The Insurance Company resisted the complaint supporting the surveyor's report and further urged that the claim that was set forth before the Insurance Company was totally exaggerated. The complainant on its own undertook the expenses for the reinstatement of the losses which according to the complainant was only Rs.19,28,688.25 paise.
13. During the pendency of the complaint an interim order was passed on 26.04.2013 for releasing the amount of Rs.10,65,478/- to the complainant, subject to the decision of the case. The order passed is extracted herein under:

'6-04-2013

Both parties are present. Heard on the application for direction for payment of admitted amount of Rs.10,65,478/- on the part of the opposite party. Both parties agreed that the amount shall be paid and accepted in the account subject to decision of this case.

Put up on the date already fixed i.e. 08-05-2013."

14. The complaint was ultimately allowed extending that benefit of the estimated amount by the surveyor to the tune of Rs.18,17,399/-. It is in this background that the present appeals have been filed, one by the complainant claiming enhancement and the other by the Insurance Company for setting aside the impugned order.
15. Mr. Lav Kumar Agrawal has commenced his arguments urging that the report of the surveyor is erroneous in calculation and for that he has invited the attention of the Bench to the report of Mr. Vinod Kumar Lamba, the surveyor dated 26.06.2006 that has already been extracted hereinabove. Mr. Agrawal has at the outset stated that no assessment has been made with regard to the loss of the generator, which was clearly covered under the policy separately. He further submits that the items for assessment made for the machinery is incorrect, in as much as, the claims which have been disallowed from item nos. 1 to 7 in the report dated 26.06.2006 are incorrect. He submits that welding rods mentioned at item no. 2 and the embossing rolls mentioned at item no. 7 have been excluded only on the ground because they were lying near the machinery as spares. Mr. Agrawal submits that merely because the spares or the machinery accessories were lying near the machinery, the same do not stand excluded from the coverage under the policy.
16. He then submits that certain steel structures are stated to have been disallowed because it was installed later on.
17. He then submits that item no. 4 regarding freight and carriage has been erroneously excluded as they have not been found to be insured. He contends

that a freight and carriage is the part of the cost incurred by the complainant for the installation of the machines and therefore the same cannot be excluded.

18. He has then urged that item no. 5 is the inspection fee that has been realised from the complainant and which ought to be refunded. He then submits that civil work related to a component of the building itself, in as much as, the civil work was required to be done for the installation of the machinery and consequently the same could not have been excluded.
19. He has then urged that the depreciation applied by the surveyor is 10% p. a. for five years. He contends that there is no basis for the same, as a life of the machinery was admittedly of 25 to 30 years, whereas only 4 years and 7 months have passed by.
20. He therefore submits that the computation made by the surveyor is erroneous and the Insurance Fraud Investigator, Mr. R. C. Bajpayee, who was appointed later on, simply reduced the percentage of depreciation from 10% to 7.5%, for which also there is no basis. The argument of Mr. Agrawal is that the policy was issued in respect of the goods that were admittedly known to have been existing for 5 years and therefore it was the insured value as on the date of renewal of the policy that was mentioned in the policy. It is that amount which is indemnifiable and there was no occasion for applying depreciation, in as much as, the value of the plant and machinery and the building on the renewal of the policy was a depreciated value, keeping in view their length of existence. Thus, further depreciation by the surveyor in the value of the goods insured

was unjustified. He therefore submits that there was no basis or foundation for applying any depreciation on the materials that were lost.

21. Learned counsel for the Insurance Company, however refuted the submissions and urged that in spite of all this, the incident was not disputed and keeping in view the promises made under the policy a cheque of Rs.10,65,478/- was tendered, which the complainant refused to receive. The complainant, however later on moved an application for release of the amount that was allowed on 26.04.2013 already quoted hereinabove. The said amount has therefore been received by the complainant under the interim orders of the State Commission dated 26.04.2013.
22. The issue therefore now is of quantum and the computation and calculations which according to the complainant have been incorrectly carried out by the surveyor and the Insurance Company has erroneously accepted the same which amounts to deficiency in service and unfairness in transaction.
23. At the outset, we may point out that an oral argument has been advanced with regard to the loss of generator as well. What we find is that the original complaint does not anywhere mentions the loss of generator. We have not been able to find out any claim being lodged for the loss of the generator and it for this reason that it seems that the Surveyors' report dated 26.06.2006, does not contain even a reference to the loss of the generator. Consequently, the oral arguments advanced by Mr. Agrawal cannot be sustained for such a loss, which was neither claimed nor has been specifically pleaded in the complaint. The surveyor's report also does not eventually mention any loss to

the generator and consequently the claim for any damage or loss to the generator cannot be countenanced.

24. Coming to the issue of Welding rods and spares lying near the machinery, it may be mentioned that the fire had occurred on a day when the unit was closed. It was not functional on that date. It is also not disputed that the items were lying beside the machines in the workshop itself. There is therefore every reason to presume that they have suffered losses, but merely because they were lying near the machine cannot be a ground to disallow the claim unless it is found to be fraudulent. In the instant case, there is no such allegation that the claim is not genuine. The fire did take place which remains undisputed. The damage to the Welding rods and to the Embossing rolls also remains undisputed. They have been excluded because they were simply lying near the machines as spares. We do not find any logic in the report of the surveyor to exclude these items. The welding rods have been assessed at Rs.12,487/- and the amount of embossing rolls is Rs.2,40,000/-. These two amounts therefore deserve to be included in the loss assessed.

25. Coming to the issue of depreciation, it is evident that the plant was purchased in the year 2001 and the loss occurred on 17.09.2005. There cannot be any dispute about the age of the machines. The question is as to the rate of depreciation which was applied @ 10% p.a. by the surveyor. This rate was reduced to 7.5% by the Insurance Fraud Investigator, Mr. R. C. Bajpayee. The Insurance Company has given no reason for accepting the reduction, even if it is assumed that the investigator has also not given any basis for calculating the

depreciation @ 7.5%. It is evident that the investigator was appointed by the Insurance Company itself, who has recommended a depreciation of 7.5%.

26. The machinery has been insured and the insured amount as mentioned in the policy is for plant and machinery is Rs.88,02,000/-. The sum insured therefore covers the amount which has been claimed and it falls within the scope of the policy. What we find is that the complainant has indicated that the purchase value of the machinery in the year 2001 was Rs.66,47,264/-. This was supported by the invoice dated 16.02.2001. It is therefore not a case of under insurance. However, the value of the machines that were purchased for Rs.66,47,264/- would certainly reduce within five years of its installation. From that point of view, the depreciation is liable to be invoked, but the question is that the policy which was taken for the period in question was a renewed policy for a value of Rs.88,02,000/-. Acquiring a policy for a higher value or higher sum insured would not increase the value of the machinery that was admittedly purchased for Rs.66,45,264/- in 2001.
27. The surveyor while assessing the loss has recommended the reduction @ 10% and the investigator has reduced the same to 7.5%. The surveyor has calculated the loss of 50% of the valuation to the tune of Rs.9,08,699/- and the net loss has therefore been calculated after less salvage and excess clauses to the tune of Rs.8,48,700/-.
28. On a calculation as per the investigator on a depreciation of 7.5%, the amount comes to Rs.11,35,874.37 paise. Reducing the amount of Rs.50,000/- as salvage and Rs.10,000/- as less excess clause, this amount comes to

Rs.10,75,874/-. This amount has already been paid under the interim orders of the State Commission on 26.04.2013.

29. As indicated above, we have found that the surveyor has unreasonably made deductions of the Welding rods as also the Embossing rolls that were also damaged in the fire. The total amount is Rs.2,52,487/-. The said material and spares, if @ 37.5% is deducted as per the investigator, would be Rs.1,57,804/-. Apart from this certain other deductions have also been made, but we will not forensically examine the same as it is only the broad items that have been disallowed and have been noticed by us. Thus, apart from the sum of Rs.10,75,874/- paid to the complainant, an additional sum of Rs.1,57,804/- also deserves to be paid. Apart from this the complainant is also entitled to payment of interest on both the amounts which has not been awarded.
30. Interest on claims has to be awarded as held by the Apex Court that the failure to award interest, when there is a delay in payment, results in injustice. This matter was considered by the Apex Court in the case of LIC of India and Anr. versus S. Sindhu reported in (2006) 5 SCC 258 the provisions of the Interest Act, 1978. Following the aforesaid principle this Commission in the case of Soni Singh & Ors. Vs. M/s. Iffco Tokio General Insurance Co. Ltd., FA/958/2023 decided on 29.08.2025, in paragraphs 12 to 16 has observed as under:

"12. We may point out that award of interest in consumer complaints of different varieties has been upheld and the Apex Court has gone to the extent of observing that failure to award

interest, when there is a delay in payment, results in injustice and therefore interest should be awarded in all cases subject to of course the discretion to be exercised in these matters depending upon the facts of each case. This matter was considered by the Apex Court in the case of LIC of India and Anr. versus S. Sindhu reported in (2006) 5 SCC 258S the provisions of the Interest Act, 1978, where in Paragraph No. 12 to 15 it was observed as under:

"12. Where a statute provides for payment of interest, such interest will have to be paid in accordance with the provisions of such statute. Admittedly there is no enactment, or rules made under any enactment, either relating to contracts in general or insurance in particular, which provides for payment of interest in regard to the amount payable under such a policy.

*13. Let us now consider **the provisions of the Interest Act, 1978 ("the Act" for short)** which deals with payment of interest up to the date of suit/claim. The Act was enacted to consolidate and amend the law relating to the allowance of interest in certain cases. The objects and reasons state that the Act was enacted to prescribe the general law of interest in a comprehensive and precise manner, which becomes applicable in the absence of any contractual or statutory provision specifically dealing with interest. Sub-section (1) of Section 3 of the Act provides that in any proceedings for the recovery of any debt or damages, or in*

*any proceedings in which a claim for interest in respect of any debt or damages already paid is made, **the court may, if it thinks fit, allow interest to the person entitled to the debt or damages or to the person making such claim, as the case may be, at a rate not exceeding the current rate of interest,** for the whole or part of the following period, that is to say—*

if the proceedings relate to a debt payable by virtue of a written instrument at a certain time, then, from the date when the debt is payable to the date of institution of the proceedings;

if the proceedings do not relate to any such debt, then, from the date mentioned in that regard in a written notice given by the person entitled or the person making the claim to the person liable that interest will be claimed, to the date of institution of the proceedings.

*14. Sub-section (3) of Section 3 makes it clear that nothing in Section 3 shall apply in relation to any debt or damages upon which interest is payable as of right, by virtue of any agreement, or any debt or damages upon which payment of interest is barred, by virtue of an express agreement. **Clause (a) of Section 2 of the Act defines "court" as including a tribunal and an arbitrator;** clause (c) of Section 2 defines "debt" as any liability for an ascertained sum of money and includes a debt payable in kind but does not include a judgment debt; and clause (b) defines "current rate of interest". Sub-section (1) of Section 4 of the Act provides that notwithstanding anything contained in Section*

3, interest shall be payable in all cases in which it is payable by virtue of any enactment or other rule of law or usage having the force of law. Sub-section (2) of Section 4 provides that notwithstanding what is stated in Section 3 or Section 4(1) of the Act, in the cases of money deposited as security for performance of an obligation, interest is payable from the date of deposit; and in the case of money payable by virtue of a fiduciary relationship, money/property obtained/retained by fraud and money due as dower/maintenance, interest is payable from the date of cause of action. A claim for interest on the amounts of premium paid, from the respective dates of payment of premium to date of settlement of claim, does not find support from any of the provisions of the Act.

*15. Even assuming that interest can be awarded on grounds of equity, **it can be awarded only on the reduced sum to be quantified and paid from the date when it becomes due under the policy (that is on the date of death of the assured)** and not from any earlier date. We do not propose to examine the question as to whether interest can be awarded at all, on equitable grounds, in view of the enactment of the Interest Act, 1978 making a significant departure from the old Interest Act (32 of 1839). The present Act does not contain the following provision contained in the proviso to Section 1 of the old Act: "interest shall be payable in all cases in which it is now payable by law". How far the decisions of this Court in *Satinder Singh v. Amrao Singh* [(1961) 3 SCR 676 : AIR 1961 SC 908] and *Hirachand Kothari v. State of Rajasthan* [1985 Supp SCC 17]*

and the decision of the Privy Council in Bengal Nagpur Rly. Co. Ltd. v. Ruttanji Ramji [(1937-38) 65 IA 66 : AIR 1938 PC 67] holding that interest can be awarded on equitable grounds, all rendered with reference to the said proviso to Section 1 of the old Interest Act (Act of 1839), will be useful to interpret the provisions of the new Act (Act of 1978) may require detailed examination in an appropriate case."

13. Learned counsel for the appellant has also relied on the decision of the Apex Court in the case of Alok Shanker Pandey Vs. Union of India & Ors., (2007) 3 SCC 545, and prays for award of 12% interest.

14. We may point out that in insurance matters the IRDA Regulations regarding Protection of Policy Holders Interest, 2002 provides for payment of interest in case of delay beyond the stipulated 45 days after the settlement of the claim with the rate of interest payable @ 2% above the bank rate.

15. In matters of medical negligence the Apex Court in the case of Balram Prasad versus Kunal Saha reported in (2014) 1 SCC 384, observed that a rate of 6% would be reasonable and the observation made in paragraph 131 of the said decision is extracted herein under:

"131. Therefore, the National Commission in not awarding interest on the compensation amount from the date of filing of the original complaint up to the date of payment of entire

*compensation by the appellant doctors and AMRI Hospital to the claimant **is most unreasonable and the same is opposed to the provision of the Interest Act, 1978.** **Therefore, we are awarding the interest** on the compensation that is determined by this Court in the appeal filed by the claimant **at the rate of 6% per annum on the compensation awarded** in these appeals from the date of complaint till the date of payment of compensation awarded by this Court. The justification made by the learned Senior Counsel on behalf of the appellant doctors and AMRI Hospital in **not awarding interest on the compensation awarded by the National Commission is contrary to law laid down by this Court and also the provisions of the Interest Act, 1978.** Hence, their submissions cannot be accepted as the same are wholly untenable in law and misplaced. Accordingly, the aforesaid point is answered in favour of the claimant.”*

16. The ratio of the above decisions therefore support the contention of the appellant for award of interest and we therefore accordingly allow this appeal in respect of the claim of interest, but we however, in the facts and circumstances of the present case, award interest @ 9% from the date of the submission of the claim i.e., 08.12.2018 till the date the actual payment made by the insurance company to the complainants/ appellants. ”

31. The date of loss is 17.09.2005. The complaint was filed on 16.06.2007. The State Commission has awarded 8% interest from the date of the filing of the

complaint. The amount paid under the interim orders of the State Commission dated 26.04.2013, is Rs.10,65,478/- through a cheque dated 29.05.2013. The said amount shall carry 8% interest from the date of filing of the complaint referred to above, till the date of payment, i.e., 29.05.2013.

32. So far as, the balance of the amount referred to above, i.e., Rs.1,57,804/- shall also carry interest @ 8% from the date of complaint till the date of actual payment which shall be paid within two months. In the event of any default, the same shall carry an interest of 10%.
33. Accordingly FA/272/2015 is partly allowed modifying the awarded amount of Rs.18,17,399/- to the extent indicated above. Since the impugned order of the State Commission has been modified to the said extent, FA/321/2015 also stands disposed off on the same terms.

Sd/-

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(A.P. SAHI, J.)
PRESIDENT

Sd/-

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(BHARATKUMAR PANDYA)
MEMBER

Brahm/ VM /Court-1/CAV