

Application No.1610 of 2016 in**C.S.No.154 of 2016****M.M.SUNDRESH, J**

The Suit is laid by the plaintiff/applicant for recovery of a sum of Rs.3,87,14,019/- together with interest at the rate of 18% per annum from the date of plaint.

2. The plaintiff is seeking repayment of insurance coverage at the hands of the respondent No.1. The insurance was made for the goods in transit and thus intended to cover transit loss, as during transit, the losses occurred in pursuant to an unavoidable accident, for which, the plaintiff laid the claim.

3. Though the claim for a sum of Rs.3,87,14,019/- was approved, it was made subject to destruction of salvage in the presence of Surveyor, as the claim being termed as a total loss, as per the terms and conditions of the policy.

4. When the matter is taken up for hearing, the learned counsel for the plaintiff submits that in view of the affidavit filed before this Court, the plaintiff is ready and willing for destruction of salvage, the cost of which will have to be borne by the respondents. The said exercise will be done in the presence of the Surveyor.

5. The learned counsel for the defendant No.1 submits that the amount of Rs.1,26,35,109/- will be paid without any interest thereon and subject to the compliance of the destruction of salvage by the plaintiff in the presence of the Surveyor. In the letter dated 17.08.2015, the defendant No.1 has stated as follows:-

"Please refer to your letter dated 10.07.2015 in connection with above claim. We hereby inform you that our Competent Authority has approved the claim for damages to Truelaser 3030 Laser Cutting Machine for an amount of Rs.1,26,35,109/- (Rupees One Crore Twenty Six Lakhs Thirty Five Thousand One Hundred and Nine only) being full and final settlement of the claim on total loss basis subject to destruction of the salvage in the presence of surveyor as the claim is being treated as TOTAL LOSS.

We are enclosing the loss voucher for Rs.1,26,35,109/- (Rupees One Crore Twenty Six Lakhs Thirty Five Thousand One Hundred and Nine only) being full and final settlement of the claim on total loss basis.

Kindly return the same duly discharged along with the bank account details as per format attached along with the cancelled cheque of the said account to which the amount is to be transferred.

Please note that we shall make the payment on confirmation of destruction of salvage in the presence of the surveyor."

6. In view of the stand taken by the parties as could be seen from the affidavit, there will not be any difficulty in ordering the Application for a sum of Rs.1,26,35,109/-. However, this Application is ordered, subject to the compliance of destruction of salvage by the applicant/plaintiff in the presence of a Surveyor, as mentioned in the letter dated 17.08.2015. All the other issues are left open to be decided in the suit. The cost for the destruction has to be borne by the first respondent No.1, which is also subject to the result of the Suit.

16.08.2016

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M.M.SUNDRESH,J

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