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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1581/2016

GENERAL INSURANCE COUNCIL (G.I. COUNCIL) & ORS ..... Petitioners

Through Mr. Sanjay Jain, ASG with Mr. Vineet Malhotra, Mr. Shubhendu Kaushik, Ms. Bani Dikshit, Ms. Rhea Verma & Ms. Pallavi Shali, Advocates

versus

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ..... Respondent

Through None

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

<u>O R D E R</u>

% **24.02.2016**

Present writ petition has been filed challenging the Circular dated 24th September, 2015 issued by Insurance Regulatory and Development Authority [for short 'IRDA'] whereby a direction has been issued to insurance companies that they shall not use a discharge voucher as an estoppel against the aggrieved policy holder when such policy holder approaches a judicial forum for higher compensation.

Mr. Sanjay Jain, learned Additional Solicitor General appearing for petitioners states that a discharge voucher or a settlement intimation voucher is used by insurance companies in order to close the claim so that it does not remain outstanding in their books of account. He submits that a discharge voucher is legally recognized under Section 63 of the Indian Contract Act, 1872. In this regard, he refers to illustration (b) to the said Section.

Mr. Sanjay Jain also submits that the issue pertaining to discharge voucher had arisen for consideration before the Supreme Court in ***National Insurance Company Limited Vs. Boghara Polyfab Private Limited, (2009) 1 SCC 267*** wherein it has been held as under:-

> *"26. When we refer to a discharge of contract by an agreement signed by both parties or by execution of a full and final discharge voucher/receipt by one of the parties, we refer to an agreement or discharge voucher which is validly and voluntarily executed. If the party which has executed the discharge agreement or discharge voucher, alleges that the execution of such discharge agreement or voucher was on account of fraud/coercion/undue influence practised by the other party and is able to establish the same, then obviously the discharge of the contract by such agreement/voucher is rendered void and cannot be acted upon. Consequently, any dispute raised by such party would be arbitrable."*

Mr. Sanjay Jain also relies upon a judgment of the Supreme Court in ***United India Insurance Vs. Ajmer Singh Cotton & General Mills and Others, (1999) 6 SCC 400 para 4***.

Having perused the paper book, this Court finds that in December 2015 petitioner no. 1 had made a representation to respondent-IRDA to withdraw/amend the impugned Circular. The said representation has not been disposed of till date. Consequently, present writ petition is disposed of with a direction to respondent-IRDA to decide and dispose of petitioner no. 1's representation within two weeks.

It is clarified that the strict time schedule has been laid down by this Court as learned Additional Solicitor General contends that after the order of the National Commission dated 10th February, 2016 there is a possibility that a large number of cases would be decided against the insurance companies on the basis of the impugned Circular.

In case the decision of respondent-IRDA is against the petitioners, they would be at liberty to file appropriate proceedings in accordance with law.

Let a copy of this order be communicated to the respondent-IRDA by learned counsel for petitioners.

Order dasti under signature of Court Master.

MANMOHAN, J

FEBRUARY 24, 2016

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