

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Original Petition No.966 of 2019

Furniture World,
Represented by its Managing Partner,
P.Sanjeev Kumar,
Gopuram Complex,
Katcheri Road,
Kalakurichi. ... Petitioner

United India Insurance Co. Ltd.,
Represented by Authorised Representative,
Branch Office,
Salem Main Road,
Kallakurichi. ... Respondent

versus

Prayer: Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator in terms of Section 11(6) of the Arbitration and Conciliation Act, 1996 to resolve the dispute between the petitioner and the respondent arising out of an accident that took place in the petitioner premises on 09.06.2018.

For Petitioner	: Mr.Avinash Wadhwani for Mr.V.Raghavachari
For Respondent	: No Appearance

ORDER

This Petition has been filed for appointment of Arbitrator to resolve the dispute that has arisen between the petitioner and the respondent in the petitioner's premises on 09.06.2018.

2. Heard the learned counsel for the petitioner through video conferencing.

3. The learned counsel for the petitioner submitted that Clause 13 of the Insurance Policy dated 20.12.2017 stipulates that, if any dispute or difference shall arise as to the quantum to be paid under the policy, the same shall be referred to the Arbitrator. The relevant portion of the Policy, reads as follows:

"If any dispute or difference shall arise as to the quantum to be paid under this policy (liability being otherwise admitted) such difference shall independently of all other questions be referred to the decision of a sole arbitrator to be appointed in writing by the parties to or if they cannot agree upon a single arbitrator within 30 days of any party invoking arbitration, the same shall be referred to a panel of three arbitrators comprising of two arbitrators, one to be appointed by each of the parties to

the dispute/difference and the third arbitrator to be appointed by such two arbitrators and arbitration shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996. It is clearly agreed and understood that no difference or dispute shall be referable to arbitration as herein before provided, if the company has disputed or not accepted liability under or in respect of this policy. It is hereby expressly stipulated and declared that it shall be a condition precedent to any right of action, or suit upon this policy that the award by such arbitrator/arbitrators of the amount of the loss or damage shall be first obtained."

4. Though the petitioner has already sent a letter dated 03.07.2019 raising the dispute over the amount paid by the respondent, despite the same, the respondent has not responded. Hence, the present petition has been filed.

5. Despite notice served and the name has been printed in the cause list, none appeared for the respondent.

6. In such view of the matter and having regard to the Insurance Policy dated 20.12.2017 entered into between the parties, it is ordered as follows:

i) Honourable Mr.Justice M.Vijayaraghavan, Judge (Retired), High Court of Madras, residing at New No.2, Old No.15, T.V.Naidu Road, Flat No.2B, Abirami Foliage, Chetpet, Chennai - 600 031, Contact No.9003268968, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order.

iii) The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses.

iv) The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

7. The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

22.07.2020

Speaking Order / Non-speaking Order

Index : Yes / No

Internet : Yes

sri

To

Mr.M.Vijayaraghavan,
Judge (Retd.), High Court of Madras,
New No.2, Old No.15,
T.V.Naidu Road,
Flat No.2B, Abirami Foliage,
Chetpet, Chennai - 600 031.



WEB COPY

N.SATHISH KUMAR, J.

sri



Original Petition No.966 of 2019

WEB COPY

22.07.2020