

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/139/2020

SHIPRA COMMERCIAL PVT. LTD.

VERSUS

THE NEW INDIA ASSURANCE COMPANY LIMITED

BEFORE:

The Hon'ble JUSTICE ASHIS KUMAR CHAKRABORTY

Date : 07th January, 2021.

Appearance:

Mr. Joydeep Sen, Adv.

Mr. Rohit Banerjee, Adv.

Ms. Sananda Ganguli, Adv.

... for the petitioner.

Mr. Soumendranath Gangopadhyay, Adv.

Mr. Tirthankar Das, Adv.

... for the respondent.

The Court: In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner has prayed for appointment of the Presiding Arbitrator of the Arbitral Tribunal.

The parties are ad-idem that the disputes raised by the petitioner claiming higher amount of their claim arising out of the insurance coverage is to be adjudicated through Arbitral Tribunal. As per Clause 13 of the General Conditions of Contract of the Standard Fire and Special Perils Policies framed by the respondents insurance

company, the Arbitral Tribunal would comprise one Arbitrator to be nominated by each of the parties and the Presiding Arbitrator to be nominated by the said Arbitrators. In the present case, admittedly, the Arbitrators nominated by the respective parties have failed to appoint the Presiding Arbitrator. Thus, learned Counsel appearing for the respondent insurance company raise any objection to the prayer of the petitioner for appointment of the presiding Arbitrator.

Considering the materials on record and the arguments advanced by the learned Counsels for the respective parties, Justice Toufique Uddin a former Judge of this Court is appointed as the Presiding Arbitrator of the Arbitral Tribunal for deciding the claim of the petitioner. The members of the Arbitral Tribunal as well as the Presiding Arbitrator would be free to fix their remuneration which shall be borne by the parties in equal shares. The Arbitral Tribunal shall also be entitled to engage the secretarial staff whose remuneration shall also be borne by the parties in equal shares.

With the above directions the application, AP/139/2020 stands allowed.

There shall, however, be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with requisite formalities.

(ASHIS KUMAR CHAKRABORTY, J.)

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