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

+ **ARB.P. 778/2020**

M/S. RITIKA PVT. LTD.

..... Petitioner

Through: Ms. Leena Tuteja, Mr. Ishaan
Chawla and Ms. Diksha Bhatia, Advs.

versus

NATIONAL INSURANCE COMPANY LTD. Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

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06.09.2021

(Video-Conferencing)

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, for appointment of an arbitrator to arbitrate on the disputes between the parties.

2. Though a detailed counter affidavit has been filed, in response to the petition, as Ms. Tuteja correctly points out, the respondent has, in para 17 of the reply, consented to the appointment, by this Court, of a sole arbitrator to arbitrate on the disputes between the parties.

3. There is no appearance on behalf of the respondent, despite the matter having been called out twice. However, as the stand of the respondent is clear from its reply, I have heard Ms. Tuteja, learned Counsel for the petitioner and proceed to dispose of this petition.

4. The averments in the petition make out a case of a dispute amenable to arbitration in accordance with Clause 10 of the Shopkeeper's Insurance Policy, governing the contractual relationship between the petitioner and the respondent, which reads as under:

"Arbitration: If any dispute of difference shall arise as to the quantum to be paid under the 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 for if they cannot agree upon a Sole 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 condition precedent to any right of action or suit upon this policy that award by such arbitrator/arbitrators of the amount of the loss or damage shall be first obtained...."

5. Though the respondent has accepted its liability to pay the petitioner, there is a dispute regarding the quantum payable, which directly attracts the afore-extracted Clause 10 of the agreement between the parties.

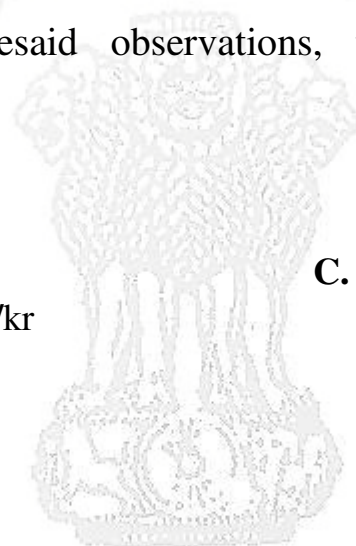
6. In view thereof, this Court refers the present petition and the dispute made out therein to the Delhi International Arbitration Centre (DIAC) to appoint an arbitrator to arbitrate thereon.

7. The arbitration would take place under the aegis of the DIAC and would abide by the rules and regulations of the DIAC. The arbitrator would also be entitled to fees in accordance with the schedule of fees maintained by the DIAC.

8. With the aforesaid observations, this petition stands disposed of.

C. HARI SHANKAR, J

SEPTEMBER 6, 2021/kr



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