IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

(12 connected cases)

Reserved on : 04.10.2023.
Date of Decision : 17.11.2023.

230

CWP-2282-2022 (O&M)

AGRICULTURE INSURANCE COMPANY OF INDIA LIMITED V/S STATE OF HARYANA AND OTHERS

CWP-7106-2021 (O&M)

SARVA HARYANA GRAMIN BANK V/S STATE OF HARYANA AND OTHERS

CWP-2668-2022 (O&M)

UNION BANK OF INDIA (ERSTWHILE CORPORATION BANK) V/S STATE OF HARYANA AND OTHERS

CWP-18296-2022 (O&M)

CANARA BANK V/S STATE OF HARYANA AND OTHERS

CWP-12041-2021 (O&M)

PUNJAB NATIONAL BANK V/S STATE OF HARYANA AND OTHERS

CWP-17171-2021 (O&M)

STATE BANK OF INDIA V/S STATE OF HARYANAND OTHERS

CWP-21459-2021 (O&M)

PUNJAB AND SIND BANK V/S STATE OF HARYANA AND OTHERS

CWP-1658-2022 (O&M)

CENTRAL BANK OF INDIA V/S STATE OF HARYANA AND OTHERS

CWP-3062-2022 (O&M)

IDBI BANK V/S STATE OF HARYANA AND ANOTHER

CWP-12816-2022 (O&M)

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LTD. V/S RAMESH AND OTHERS

CWP-13097-2022 (O&M)

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LTD. V/S SURESH AND OTHERS

CWP-10763-2023

BANK OF BARODA V/S STATE OF HARYANA AND OTHERS

****

Present: Mr. Sunil Chadha, Sr. Advocate, with
Mr. Rajesh, Advocate and
Ms. Kashish Aggarwal, Advocate for the petitioners
in CWP-2282-2022.

Mr. Rajneesh Malhotra, Advocate
for the applicant in CM-2860-CWP-2022.

Mr. Punit Jain, Advocate for petitioners in
CWP-12816-2022 and 13097-2022 and for respondent No.3
in CWP No.21459 of 2019.

Mr. Kamal Satija, Advocate,
for petitioner in CWP-2668-2022.

Ms. Adarshpal Kaur, Advocate,
for the petitioner in CWP-21459-2021.

Mr. Rahul Garg, Advocate
for the petitioner in CWP-10763-2023.
Mr. Bhushan Bhatia, Advocate for the petitioners in
CWP-7106-2021, CWP-12041-2021, CWP-17171-2021,
CWP-1658-2022, CWP-3062-2022,
CWP-18296-2022 and
for respondent-Bank in CWP-2282 of 2022,
CWP-12816-2022 and CWP-13097-2022.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Viraj Gandhi, Advocate for respondent No.4 in
CWP-12041-2021 and 21459 of 2021 and
for respondent No.3 in CWP-2668-2022.

Mr. Amit Jain, Senior Advocate with
Mr. Rajneesh Malhotra, Advocate
for respondent No.5 in CWP-10763-2023 and
for respondent No.2 in CWP-3062-2022.

Mr. Sandeep Suri, Advocate for respondents No.3 & 7 in
CWP-12041-2021, CWP-1658-2022, CWP-17171-2021,
CWP No.7106 of 2021 and CWP-21459-2021 and
for Bajaj Alliance in CWP-12816-2022 and CWP-13097-
2022.

Mr. Prateek Gupta, Advocate and Mr. Nitin Gupta, Advocate
for respondent No.6 in CWP-21459-2021,
CWP-17171-2021 & CWP-7106-2021, CWP-2668-2022,
CWP-18296-2022, CWP-12041-2021 and CWP-10763-2023.

Mr. Amit Jhanji, Sr. Advocate with
Mr. Shashank Shekhar Sharma, Advocate
for respondent No.5 in CWP-12041-2021.

Mr. Ankur Gupta, Advocate
for respondent No.7 in CWP-10763-2023.

Mr. Nitin Thatai, Advocate, for respondent No.8 in
CWP-7106-2021, CWP-12041-2021, CWP-17171-2021,
CWP-21459-2021, CWP1658-2022, CWP-18296-2022
and CWP-10763-2021.

Mr. Satpal Dhamija, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.2 in CWP-21459-2021
and CWP-10763-2021.

VINOD S. BHARDWAJ, J.

The present batch of 12 writ petitions raising a common dispute are being decided by a single judgment. Nine (09) writ petitions have been filed by Bank(s) while the remaining 03 writ petitions have been filed by the Insurance Companies against the decision relating to indemnification under the Pradhan Mantri Fasal Bima Yojna (hereinafter referred to as "PMFBY").

For the facility of reference facts are being referred from **CWP No.2282 of 2022** titled as **'Agriculture Insurance Company of India Limited Vs. State of Haryana and others.'**

FACTS

Challenge in the present writ petition is to the orders dated 14.01.2021 (Annexure P-11) and 03.09.2021 (Annexure P-28) passed by the State Level Grievance Redressal Committee (SLGC) in the meeting of the Director General of Agriculture and Farmers' Welfare, Department of Agriculture and Farmers' Welfare, whereby the petitioner-Insurance Company has been directed to pay claim to the tune of Rs.9,95,57,413.03 (Rupees Nine Crores Ninety Five Lakhs, Fifty Seven Thousand Four Hundred Thirteen and three paise) which are alleged to have been directed without providing any supporting documents or details regarding the claims to be paid. A further prayer has been sought for directing the respondent No.2 to pass fresh orders qua the claims in which the Banks/Farmers/State Governments are at fault and despite the same, the petitioner-Insurance Company has been held liable.

The petitioner-Insurance Company had been formed on 20.12.2002 exclusively to deal with agriculture and allied insurance at the behest of the Government of India consequent to the announcement made by the then Finance Minister in his General Budget Speech for the Finanial Year 2002-2003. The petitioner-Insurance Company took over the implementation of National Agricultural Insurance Scheme (for short 'NAIS') w.e.f. 01.04.2003 from the General Insurance Corporation of India. In addition, National Agricultural Insurance Scheme also transacts other insurance businesses directly as well as indirectly concerning agriculture and its allied activities.

The Government of India issued its administrative approval to the Pradhan Mantri Fasal Bima Yojna (hereinafter referred to as "PMFBY") and operational guidelines were circulated by the Department of Agriculture and Farmer Welfare, Ministry of Agriculture and Farmer Welfare, Government of India. Administrative approvals were issued vide letters of different dates for subsequent seasons. The said guidelines were revised by the Government of India vide letter dated 28.09.2018 and were made applicable w.e.f. 01.10.2018. A clarification was thereafter issued by the Government of India vide letter dated 16.01.2019 to the effect that where the tenders had already been floated and accepted as per the old guidelines, the provisions of Threshold Yield Calculation, Localized Calamities and Post-Harvest Losses will be as per the tender conditions and as per the old guidelines applicable as on date of finalization of tender before the issuance of revised guidelines.

Subsequently, Government of Haryana, issued a Notification dated 24.05.2019 through the Director of Agriculture and Farmers' Welfare, Haryana, for implementation of PMFBY during the season Kharif-2019 and Rabi 2019-2020. As per the above Notification Four Kharif crops of Maize, Paddy, Bajra and Cotton and Five Rabi Crops of Wheat, Gram, Barley, Mustard and Sunflower were notified. Cluster 1 comprising of seven Districts namely Panchkula, Bhiwani, Rewari, Kurukshetra, Kaithal, Faridabad and Sirsa had been allotted to the Agriculture Insurance Company of India i.e. the petitioner herein for implementation of the PMFBY for the above mentioned seasons. Accordingly, a Corrigendum dated 19.06.2019 was issued by the Department of Agriculture of Haryana pertaining to premium sharing for Bajra and Maize. Based on the above said guidelines issued by the State of Haryana, the petitioner Insurance Company issued guidelines to the Bankers as well as the controlling heads on 27.05.2019. The salient features of the above said operational guidelines relied upon by the petitioner Insurance Company, are extracted as under:-

> *"A. All the farmers including sharecroppers and tenant farmers growing the notified crops in the notified areas are eligible for the coverage under the Scheme.*
>
> *B. The Scheme is compulsory for loanee farmers i.e. all the farmers availing Seasonal Agricultural Operations (SAO) loans from the Financial Institutions (FIs) for the notified crops would be covered compulsorily. The concerned banks/bank branches must upload individual farmer-wise details on National Crop Insurance Portal*

(www.pmfby.gov.in) and remit the farmer's share of premium within the prescribed cut-off dates. As per the provisions of the Scheme, AIC/Implementing Agency disburses the claims, if any, to the Fls and in turn, Fls credit the same in respective farmers' account. As per the Scheme, only farmers whose data is uploaded by their banks on the National Crop Insurance Portal shall be eligible for insurance coverage and the premium subsidy from the State and Central Govt. is released accordingly.

C. The Scheme is optional for non-loanee farmers. Non loanee farmers are required to submit necessary documentary evidence of land records and/or applicable contract/agreement details/other document notified/permitted by the concern State Govt. (in case of sharecroppers/tenant farmers). Their coverage details are also required to be uploaded on National Crop Insurance Portal (www.pmfby.gov.in) by the concerned bank branch, CSC or authorized channel partner/directly by farmer online etc.

D. As per the provision of the Scheme, the sum insured per hectare for both the loanee and non-loanee farmers will be the same and equivalent to the Scale of Finance as decided by the District Level Technical Committee and would be pre-declared by the State Level Co-ordination Committee on crop Insurance (SLCCCI) and notified in Notification.

E. Actuarial Premium Rate (APR) would be charged under PMFBY by Implementing Agency (IA). The rate of insurance charges payable by the farmers has been rationalized for the crops throughout the country and reduced to a lower level subject to a maximum ceiling of 2% of sum insured for Kharif food grains, pulses and oilseed crops, 1.5% for Rabi food

grains, pulses and oilseed crops and 5% for Kharif & Rabi annual commercial/annual horticultural crops. Difference of APR and Farmers premium are shared between the Central Govt. and State Govt. on 50:50 bases. Claims liability is borne by the IA. If premium to claim ratio exceeds 1:3.5 or percentage of claims to sum insured exceeds 35%, whichever is higher, at the national level in a crop season, then Governments will provide protection to IAs.

F. The Scheme is being implemented in Haryana in association with the State Govt. The State Level Co-ordination Committee on crop Insurance (SLCCCI) is overseeing the implementation of PMFBY. In accordance to the GOI Administrative Instructions and Operational Guidelines, the SLCCCI meeting is held and notification is issued for implementation of PMFBY during Kharif & Rabi seasons in the State. The Directorate of Agriculture, Haryana, maintains the records regarding the crop-wise, notified area wise, crop yield data based upon requisite number of Crop Cutting Experiments (CCEs) as per General Crop Estimation Survey (GCES) and sends the same to the IA from time to time. Every season, State Govt. assesses the crop yield for each notified crop in each notified area.

G. As per Revised PMFBY, following risks are covered:

***Standing Crop (Sowing to Harvesting)**: Comprehensive risk insurance is provided to cover yield losses due to non-preventable risks, viz. Drought, Dry spell, Flood, Inundation, widespread Pests and Disease attack, Landslides. Fire due to natural causes, Lightening, Storm, Hailstorm and Cyclone. Scheme operates on the principal of 'Area Approach' in the selected Defined Areas called Insurance Unit (IU). State*

Govt/UT has to notify the crops and defined areas covered during the season in accordance with decision taken in the meeting of SLCCCI. If Actual Yield (AY) per hectare of insured crop for the insurance unit (calculated on basis of requisite number of CCEs) in insured season, falls short of specified Threshold Yield (TY), all the insured farmers growing that crop in the defined area are deemed to have suffered shortfall in their yield of similar magnitude. PMFBY seeks to provide coverage against such contingency. Claim shall be calculated as per the following formula.

$$\text{Claims Payable} = \frac{\text{(threshold Yield - Actual Yield}}{\text{Threshold Yield}} \times \text{sum insured}$$

Where, Threshold Yield for a crop in a notified area is the average yield of past seven years (excluding a maximum of 2 calamity years, if any, as notified by the State Govt./UT) multiplied by applicable Indemnity Level (IL) for that crop.

Under PMFBY, after receipt of yield Data from State Govt. the Actual Yield obtained is compared with the Threshold Yield. Any insured crop in a notified area recording lower actual yield than the Threshold yield becomes automatically eligible for claim and all the insured farmers of that notified area/crop are compensated at the same rate irrespective of the fact that whether an individual farmer has suffered loss or not. No claims become payable in case there is no shortfall in yield for the notified crop in the notified area or if there is no coverage under PMFBY. Claim under the Scheme is settled strictly as per the provisions and guidelines described in the Scheme. The claim under PMFBY is settled only on the basis of yield data furnished by

Directorate of Agriculture, Haryana arrived at through regular crop estimation surveys for production estimates i.e. planned crop cutting experiments and not on any other basis such as Annavari, declaration of drought, declaration of floods by Gazette notification by any department/authority. Claim, if any, is disbursed to the banks/directly to the insured farmers, which credit the same to the accounts of the respective eligible beneficiaries.

H. Besides above, four other types of claims determination processes are also envisaged in the Scheme (PMFBY), which are mentioned given below in brief:

***I) On-account payment of claims due to mid-season adversity (at Notified Area Level)**: Insurance cover will be provided to the farmers to provide immediate relief in case of adverse seasonal conditions during the crop season viz. floods, prolonged dry spells, severe drought etc., wherein expected yield during the season is likely to be less than 50% of Normal Yield.*

***II) Prevented/failed sowing claims (at Notified Area Level)**: Insurance cover will be provided to farmers in case of widespread incidence of eligible risks (Section 5, para 5.1.1, i.e. Prevented Sowing/Planting/Germination Risk: Insured area is prevented from sowing/ planting/germination due to deficit rainfall or adverse seasonal/weather conditions) affecting crops in more than 75% of area sown in a notified unit at early stage, but not later than 15 days from cut off date for enrolment, leading to total loss of crop or the farmers are not in a position to either sow or transplant the crop.*

III) Post-harvest losses claims (at Individual Farm Level)*: Provision has been made for assessment of yield loss on individual plot basis in case of occurrence of hailstorm, cyclone, cyclonic rains and unseasonal rains resulting in damage to harvested crop lying in the field in 'cut and spread/small bundled condition for drying upto maximum period of two weeks (14 days) from harvesting, for sole purpose of drying. For the purpose of indemnification of post harvest crop losses, unseasonal rains shall be triggered when the excess rainfall is more than 20% over long period average over the month for that district subject to confirmation of the damage in the Joint survey to be conducted by concerned State Govt. and Insurance Company*

IV) Localized Risk claims (at Individual Farm Level)*: The Scheme provides for insurance cover at individual farm level to crop losses due to occurrence of localized perils/calamities viz. Hailstorm, Landslide, Inundation, Cloud burst and Natural fire due to lightening affecting isolated farms in a notified area or a plot.*

For the purpose of indemnification of crop losses due to inundation as localized claim, inundation is a situation where insured field is covered or submerged by water due to rise in water level by rainwater that has fallen naturally from the sky or from an artesian well or flood water locally and where water stays for prolonged period and causes visible damage to the crop.

As per para 5.1.8 of the Revised PMFBY, the yield loss damage for localised calamities and post harvest losses will be assessed on the basis of individual insured farm level and hence lodging of loss information by farmer/designated

agencies is essential. For remaining risks losses are due to widespread calamities. Hence lodging of information for claims by insured farmers/designated agencies for such wide spread calamities is not essential. Claims will be calculated based on the loss assessment report/average yield submitted by concerned State Govt.

As per paragraphs 21.5, 21.5.4.1, 21.5.4.2, 21.5.9.1 (Table) of the Revised PMFBY, the localized intimation must contain details of survey-number-wise insured crop and acreage affected. Duly filled-in loss intimation is mandatory to ascertain the insurable interest. There are prescribed timelines also to lodge loss intimation (72 hours) as well as its forwarding to IC (48 hours). Accordingly, AIC should not be held liable for incomplete loss intimation, delayed intimations, intimations without having details like survey no. wise insured crop and acreage affected.

Similar provisions are mentioned w.r.t. Post-Harvest Losses in paragraph no. 21.4 of Revised PMFBY.

State Govt. of Haryana is maintaining a dedicated portal PMU-MIS for the receipt of crop loss intimations from the individual farmers w.r.t. localised calamities and post-harvest losses. A unique PMU ID is being provided to localised intimation.

21.5.2.4 of Revised PMFBY-

It is pertinent to mention here that if the pay out under area approach (based on CCES data) is more than localized losses, the higher claims of two will be payable to insured farmers.

1. *PMFBY is a multi-agency Scheme and being operated by the multiple agencies viz., State Govt., Insurance Companies, Govt. of India, Bankers, Common Service Centers Insurance Intermediaries and Farmers. The role of each agency is limited and well defined in the Scheme provisions and State Govt. Notification. AIC is mere one of implementing Agency and strictly functions as per the Scheme provisions and State Govt. Notification."*

The revised PMFBY made effective from 01.10.2018 called for following procedural revisions:

*"**As per para 2 of the Revised PMFBY regarding Adoption of Technology for Scheme Administration**:*

2.1 In an endeavour to integrate Technology in implementation and execution of the Scheme, the Govt. of India has designed and developed a National Crop Insurance Portal (NCIP) (www. pmfby.gov.in). This will bring in better administration and coordination amongst stakeholders viz. Farmers, States, Insurers and Banks as well as real time dissemination of information and transparency.

2.2 The successful running of the Portal calls for responsible participation by different stakeholders who will have the responsibility for census coding and updating revenue/administrative units, AWS code mapping and updating requisite information/details as per login credential module.

2.3 Implementing States and Insurance Companies during each crop season are required to digitize and upload on the web Portal in the relevant module, basic information like

notified areas, crops, sum insured, Govt subsidy, and premium to be paid by farmers and name of the implementing Insurance Companies in the particular insurance unit etc.. well within the prescribed time. This will facilitate farmers and other stakeholders to get the relevant information on Internet and through SMS State Govt, and concerned Insurance Company will be responsible for any incorrect entry/errors/ omissions etc.

xxx xxx xxx

2.6 All Stakeholders have defined roles and responsibilities and accessibility to related modules on the Portal for administration of the Scheme. Details of operationalization of modules for each stakeholder are available on the Portal for ready reference.

xxx xxx xxx

2.9 Only farmers whose data is uploaded on the National Crop Insurance Portal shall be eligible for Insurance coverage and the premium subsidy from State and Central Govt. will be released accordingly.

xxx xxx xxx

2.11 Banks/Financial Institutions/other intermediaries need to compulsorily transfer the individual farmer's data electronically to the National Crop Insurance Portal. Accordingly Banks/Fls may endeavour to undertake CBS integration in a time bound manner for real time transfer of information/data.

As per Para 9.2 - Banks, CSC and Insurance Agents are required to remit the premium payment to respective Insurance Company mandatorily through RTGS/NEFT followed by mandatory uploading of payment details on National Crop Insurance Portal within stipulated date.

Clause/Para 17 of Revised PMFBY - regarding collection of proposal and premium from farmers*:*

17.2 Consolidated declaration/ proposal formats to be submitted physically/ electronically by Nodal banks/Branches shall contain details about Insurance Unit, sum insured per unit, premium per unit, total area insured of the farmers, number and category of farmers covered (small and marginal or other) and number of farmers under other categories (SC/ST/others)/Women along with their bank account details etc (bank/their branches) as per the application form provided on the National Crop Insurance Portal. Banks are required to upload the insured farmers' data mandatorily on the National Crop Insurance Portal. No other platform shall be used for uploading/submission of farmers' data. Those farmers whose data is uploaded on the National Crop Insurance Portal shall only be eligible for Insurance coverage and accordingly the premium subsidy will also be released. In cases where farmers are denied crop insurance due to incorrect/ partial/non-uploading of their details on Portal. concerned Banks/Intermediaries shall be responsible for payment of claims to them.

17.4.5 Crop loans sanctioned through Kisan Credit Cards (KCC) are covered under compulsory coverage and banks shall maintain all back up records and registers relating to compliance with PMFBY and its seasonality discipline and cut-off-date for remittance of premium/submitting of coverage details as in the case of normal crop loans. Bank branch will apportion coverage among insurable crops, based on acreage mentioned in loan application or on the basis of actual area sown as declared by the farmer subsequently.

17.4.6 Bank branches of Commercial banks and RRBs/ Nodal Bank in case of PACS under its jurisdiction shall submit individual insured farmer's details along with NEFT/RTGS/UTR details of premium online through National Crop Insurance Portal. Additionally, consolidated insurance proposals/ statements/declarations from the bank branch/ Nodal Bank in case of PACS under its jurisdiction, shall be forwarded to the concerned Insurance Company along with details of remittance/ RTGS towards insurance premium, in accordance with cut off dates, as specified by SLCCCI for a particular crop and season. It shall be the responsibility of ICs to collect the consolidated statement from the concerned bank branches/ PACS.

17.4.7 Different options are available for bank branches to provide details of beneficiaries in a more transparent and authentic mechanism. Bank branch can upload the details of insured farmers through online application mode. Banks are required to upload/enter the information continuously without waiting for last day for premium debit and data entry.

17.4.8 As an alternative, direct integration of Core Banking Solution (CBS) with National Crop Insurance Portal has also been successfully initiated and the same may be used by Scheduled Commercial Banks/RRBs/DCCBs available on CBS for pushing the farmers' details in bulk directly without filling the individual farmer's details on web-portal or off-line utility.

As per para 17.5.7 of Revised OG of PMFBY - For farmers buying crop insurance through CSCs or online, OTP/Adhaar enabled verification shall be construed as signature by the applicant for coverage under crop insurance.

17.9 The concerned branches of banks and Nodal Banks/ DCCBs in case of PACS will upload the details of individual insured farmers (both loanee and non-loanee) like farmer's name, father's name, Bank Account number. Adhaar Number, village, categories - Small and Marginal/SC/ST/Women, insured acreage, details of insured land, insured crop(s) etc as prescribed in online application form. available on National Crop Insurance Portal or CBS integration module and submit the same within stipulated cut-off date as per the seasonality discipline/ The Banks/ PACS must also ensure the premium amount is remitted to the concerned Insurance Company electronically within the stipulated time, failing which they shall be responsible for payment of claims, if any to the farmers. However, any dispute in the matter may be referred to the State Govt. by the concerned Agency/Bank for taking appropriate action within the prescribed cut off date for reconciliation of premium by banks with all details.

17.11 Insurance Companies should also reconcile the details of individual insured farmers uploaded on the Portal with the premium/consolidated declaration received from each branch/nodal bank within the stipulated date and any deficiency/ mismatch may be reported to concerned bank branch/nodal bank. The Bank Branch/Nodal Bank should further send/upload the requisite information in respect of such farmers for whom clarification has been sought, immediately within 7 days. If such rectification is not done/completed by bank branch /nodal bank within the stipulated period, Insurance Companies may recommend to take necessary action to State Govt. under intimation to Central Govt. State Govt in consultation with SLBC may recommend suitable administrative action against such defaulting branch/bank. However, claims (if any) in such

cases of such farmers shall be borne by the concerned bank only.

17.12 Insurance Companies should verify and satisfy themselves about the coverage of farmers/ crops and give acceptance to the applications submitted by banks electronically through National Crop Insurance Portal. The insured farmer's personal details like AADHAAR numbers, Banking Details, Address, mobile nos. and all such details prohibited under RBI, IRDA or UIDAI Act, shall not be displayed/disclosed publicly. Insurance Companies will reconcile the details along with farmer's share of premium receipt before approaching the Govt. to release the final instalment of subsidy (third Instalment) under the Scheme.

17.13 All Insurance Companies will compulsorily verify and take necessary action including approval/rejection of proposal or policy of any farmer through National Crop Insurance Portal within stipulated date. After stipulated period for reconciliation & obtaining further clarification from stakeholders, all pending proposals/information of insured/covered farmers uploaded on Crop Insurance Portal will be treated as approved and Insurance Companies will cease their right for any further verification. However, any losses to the Govt. including excess payment of premium subsidy due to delayed/non- verification of data/information of individual covered/insured farmers on crop insurance Portal will be recovered from concerned Insurance Companies only.

17.14 Banks will ensure distribution of Acknowledgement Receipt along with Folio to each insured farmer within 7 days from the acceptance of applications by the concerned

insurance company. The Acknowledgement Receipt will be generated through National Crop Insurance Portal itself.

As per para 24.2 of the Revised PMFBY it has been mentioned that in case of any substantial misreporting by nodal bank /branch in case of compulsory farmers coverage, the concerned bank only shall be liable for such misreporting.

As per para 27.1.1 of the Revised PMFBY Bank and other financial institutions etc. shall be paid service charges @ 4% of the farmer's share of premium by Insurance Company as generated from the Portal and within the 15 days of finalization of business statistics. Rural agents engaged in providing insurance related services to farmers may be paid appropriate commission as decided by Insurance Company, subject to cap prescribed under IRDAI regulations. If there is delay in payment of service charges by Insurance Company beyond 15 days of finalization of business statistics, amount needs to be paid with interest @12% p.a.

As per para 27.1.2 of the Revised PMFBY - Even if the farmer's share of premium is contributed/financed by the concerned State Govt. the applicable service charges shall be paid by the concerned Insurance Company only.

As per para 27.1.3 of the Revised PMFBY - No service charges will be payable to the concerned bank/branch for the applications for which any anomaly/deficiency/ misrepresentation of details/data is found.

As per para 35.5.2.8 of the Revised PMFBY - The Nodal Banks/Administrative offices/Bank Branches shall also upload the details of each individual insured farmer on National

Crop Insurance Portal through web-form or CBS on or before final cut-off date.

As per para 35.5.2.9 of the Revised PMFBY - The Insurance Company shall acknowledge the receipt of farmers premium and declarations submitted by the banks and any clarification/rectification sought by Insurance Companies should compulsorily be replied/addressed by the bank within 7 days. The banks should cross check with their records and aberrations, if any, should be brought to the notice of the Insurance Company immediately. If no response is received from banks within cut off time/reconciliation period, the details submitted on the Portal shall be considered final and no changes would be accepted later on. Insurance Companies will thereafter act as deemed fit as per applicable provisions.

As per para 35.5.2.13 of the Revised PMFBY -Banks should ensure that cultivator are not be deprived of any benefit under the Scheme due to errors/omissions/commissions of the concerned branch/ PACS, and in case of such errors, the concerned agencies shall have to make good all such losses.

As per para 35.6.8 of Revised OG of PMFBY CSC-SPV will be responsible for accuracy of details and document of individual farmers uploaded on National Crop Insurance Portal and liable for claim payment due to errors and omissions committed by SPV/VLE.

As per para 35.7.5 of the Revised PMFBY - The CSC (VLEs) are required to fill up the correct details of non-loanee cultivators and upload the requisite documents alongwith their mobile number on National Crop Insurance Portal and remit the premium amount through CSC Portal well within the

stipulated time. Due care should be taken in filling up the details in the application form of each insured non- loanee farmer and it should be matched with documents attached with the application.

As per para 35.7.6 of the Revised PMFBY- The VLE should ensure that insured farmers are not deprived of any benefit under the Scheme due to errors/ omissions/ commissions by them, and in case of benefits being impacted, necessary administrative and legal action will also be taken for lapses in service/malpractices.....

As per para 5.1.8 of Revised PMFBY, the Yield loss damage for localised calamities and post harvest losses will be assessed on the basis of individual insured farm level and hence lodging of loss information by farmer/designated agencies is essential. For remaining risks losses are due to widespread calamities. Hence lodging of information for claims by insured farmers / designated agencies for such wise spread calamities is not essential. Claims will be calculated based on the loss assessment report/average yield submitted by concerned State Govt.

As per paras 21.5, 21.5.4.1, 21.5.4.2, 21.5.9.1 (Table) of the Revised PMFBY, the localized intimation must contain details of survey-number- wise insured crop and acreage affected. Duly filled-in loss intimation is mandatory to ascertain the insurable interest. There are prescribed timelines also to lodge loss intimation (72 hours) as well as its forwarding to Insurance Company (48 hours).

Similar provisions are mentioned w.r.t. Post-Harvest Losses at paras 21.4 of Revised PMFBY."

In the light of the above provisions, the details of notified crops, notified areas (villages), farmer premiums rates, State and Centre Government share of subsidy rates, pre-declared sum insured values, bank branches, implementing agencies are updated in the National Crop Insurance Portal of the Government of India for administration of the Crop Insurance Programme. It is further averred that no land records/normal dues and crop sown declarations are uploaded by the banks with respect to the loaneee farmers and only the coverage details including the crop/area insured/land survey and land description numbers etc. are uploaded by the concerned bank branch and consolidated premium is remitted to the Insurance Company for reconciliation of the premium remitted with the National Crop Insurance Programme Data. Even though as per the revised PMFBY, the Governments are advised to digitize the revenue records so that the independent land record of the farmers can be accessed through the National Crop Insurance Portal, however, the integration of the digital land record is stated to be pending in the State of Haryana. In the cases where there is an integration of the land record, the bank is able to fetch the concerned famer's land details eliminating the cases of village mis-match, or any other mis-match etc. Under the operational guidelines, the Insurance Companies are given 15 days for loanee farmers and 30 days for non-loanee farmers to accept or reject the data on portal and verify the online data, which is also done by the Insurance Company, by checking the data uploaded by the bank. It is claimed that physical checking of thousands of farmers' land holdings and the crops sown cannot be carried out by the Insurance Company as the data is to be fed by the Bank which is extending

loan to the farmers and has the documents provided by the farmer in its possession. The Insurance Company has been given the option to report any discrepancy, if found, in the data, but there is no duty laid on the Insurance Company to physically verify the data of the farmer as provided by the bank which has extended the loan. Such duty of the data collection, feeding and furnishing has been cast upon the concerned bank under the operational guidelines. The petitioner-Insurance Company downloads the data from the portal where it is uploaded by the bank and cross-checks the same for duplicity of the area insured, crops sown and premium paid but without the physical checking thereof. The petitioner-Insurance Company merely reconciles the total premium paid by the bank branch and the farmers' share mentioned in the portal data and after approval of the applications on the portal, excess premium, if any received, is refunded. The procedure for settlement of the claims has been provided in Clause 23 of the revised PMFBY and is extracted as under:-

> *"**23. Procedure for Settlement of Claims of the farmers***
>
> *23.1 Tentative final share of Govt. subsidy (2nd installment), both Central and State, on the basis of business statistics finalized on portal after 30 days of period specified for auto approval of applications on portal should have been received by Insurance Company to enable them to settle the Actual Yield based claims arising out of wide-spread calamity as well as for claims against post harvest losses. However, for settlement of On- Account payment of claims, prevented sowing/planting/germination claims and Localized calamity claims, advance subsidy (1st installment) of 50% of 80% of respective Central/State Govt. share in corresponding*

previous season should have been received for the season/area(s).

23.2 Threshold Yield for all notified crops at each "insurance unit" shall compulsorily be part of the notification for the season and shall not change at any point during that season. Crop-insurance unit, historical Average Yield, Calamity Years, Indemnity level and Threshold Yield shall be uploaded on the Portal by the concerned State Nodal Department at the time of release of notification only and shall be verified and accepted by the concerned Insurance Company within given timelines. In order to avoid manipulation/misuse of information at field level, threshold Yield shall not be a part of public information before payment of claims for that season.

23.3 The "District Level Monitoring Committee" i.e. DLMC will be required to upload/enter the details of crop loss as per the Joint Loss Survey conducted by DLJC Le. "District Level Joint Committee" for all intermediate loss events viz prevented sowing/planting/germination failure & Mid-season Adversity on the National Crop Insurance Portal. Similarly, the crop loss details for localized losses and post-harvest loss events shall be entered by the concerned Insurance Company on the Portal. Once the Actual Yield data is available on the Portal, the same shall be verified and approved by the concerned District/State authorities. For those experiments which were conducted offline/without mobile application, the Actual Yield data shall be uploaded by the concerned District administration or State nodal department on the Portal itself.

23.4 The loss reports and Actual Yield data shall be approved/reverted (in case of any discrepancy/concern on the authenticity/correctness of report/data) by the Insurance Company based on which the eligible claims shall be calculated through the Portal and accordingly the payment of claims shall be initiated by the concerned Insurance Company and remitted directly into beneficiary account as per pre-defined timelines. The application wise payment details viz. amount, reference number, date etc. shall be entered/synchronized with the National Crop Insurance Portal for future reference and audit purpose.

23.5 In case of widespread calamity (end of season claims), once yield data is received/finalized from State Govt. as per the cut-off-dates decided, claims will be worked out on the National Crop Insurance Portal as per declarations/approved proposals & covered farmer's data received from banks/channel partners/insurance intermediaries for each notified area and crops and accordingly the claims will be approved by Competent Authority of implementing Insurance Company.

23.6 In case of farmers covered through Financial Institution, claims shall be released only through electronic transfer directly into insured farmer's given bank account, followed by details containing claim particulars, to individual bank branches/nodal banks; Bank Branch should also display particulars of claim disbursal on notice board to enable spread of awareness and inclination amongst farming community for risk mitigation through crop insurance. Insurance Company is required to compulsorily upload the claim details against each insured farmer on National crop insurance Portal.

23.7 In case of farmers covered on voluntary basis through intermediaries, payable claims will directly be credited to the bank accounts of concerned insured farmers and details of the claims may also be intimated to them. The list of beneficiaries shall also be uploaded on National Crop Insurance Portal immediately.

23.8 In case of claims under prevented/failed sowing, localized calamities. post-harvest losses; Insurance Company will process the claims after assessment and shall release the claims as per detailed procedure given in the relevant sections above.

23.9 The claim settlement intimation shall be sent to each beneficiary farmer through SMS from the Portal itself. State Govts., Banks & Insurance companies shall ensure correctness of data before hand viz. Threshold Yield, Actual Yield, Insured Area, Sum Insured and Indemnity levels etc. Responsibility of any error, omissions and misreporting shall lie with the concerned State Nodal Department and insurance Company. State Govt & Insurance Companies shall resolve all the grievances of the insured farmers and other stakeholders in the shortest possible time.

23.10 In any situation, State Govt. can not reopen/recalculate claims after 30 days of claims settlement for notified crop(s) at notified unit. Disputed claims/sub-standard claims, if any, due to erroneous data may be referred within this time to SLCC/STAC and further to Technical Advisory Committee (TAC), if required, for consideration and decision."

The guidelines for the Grievance Redressal Mechanism have been prescribed in the revised PMFBY which are extracted as under:-

*"**30. Grievance Redressal Mechanism**-*

30.1 At the initial level, for grievance redressal, each district shall designate district level grievance redressal officer preferably District Agriculture Officer to respond to the grievances of Farmers, Banks, ICs etc within 7 days of receipt of grievance. In case of dissatisfaction the matter may be brought before District Level Grievance Redressal Committee (DGRC).

30.2 District Level Grievance Redressal Committee (DGRC): a district level monitoring Committee shall act as a grievance redressal Committee for redressal of grievances of Farmers, Banks, Insurance Company, District Authority/Department. This Committee will be headed by District Magistrate/Collector and representatives of Farmers, LDM/Banks, DDM NABARD, Insurance Company and concerned District Authority/Department shall be appointed as members. This Committee may also invite subject specialists/experts from University/IMD/commodity Boards/ Research Institutions, SRSC etc. if deemed necessary. The Committee will dispose the matter within 15 days. The decision of the Committee shall be accepted by all the parties and in case of disagreement with the decision; the same shall be represented to the State Level Grievance Redressal Committee (SGRC) within 15 days from the decision of DGRC. In case the DGRC doesn't take the matter for discussion within 7 days from submission of grievance or the grievance has wider scope of effect impacting more number of districts or there is a breach of guidelines by any of the stakeholder or the grievance matter exceeds Rs. 25 Lakh in

monetary terms, the matter may be directly raised at State Level Grievance Redressal Committee.

30.3 State Level Grievance Redressal Committee (SGRC): a State level monitoring Committee shall act as a grievance redressal Committee for redressal of grievance of Farmers, Banks, Insurance Company, District Authority/Department which does not get settled at DGRC. This Committee will be headed by Principal Secretary/Secretary of Nodal Department, SLBC/Banks, CGM NABARD, Insurance Company and concerned State Authority/Department shall be appointed as members. This Committee may also invite subject specialists/experts from University/IMD/research institutions/commodity Boards/, State Remote Sensing Agency, STSU, STAC etc. if deemed necessary. The Committee will dispose the grievance within 15 days time of receipt of grievance. The decision of the Committee shall be accepted by all the parties."

Owing to certain disputes pertaining to the payment of crop insurance, the matter was considered by the State Level Grievances Redressal Committee initially on 02.07.2019 where the claims had been decided mutually and the Banks had been directed to pay the claim wherever the banks were at fault and the insurance companies have been asked to make the claims wherever the Committee found the Insurance Company to be at fault. The petitioner-Insurance Company was thereafter served with letter dated 13.01.2021 with respect to the State Level Grievances Redressal Committee to be held on 14.01.2021 under the Chairmanship of Director General, Agricultural and Farmer's Welfare, Haryana which dealt with the issues of localized claims.

The State Level Grievances Redressal Committee in its meeting held on 14.01.2021 decided and directed that the banks had to pay the claims under the three heads i.e. village name mis-match, crop mis-match and the data not uploaded. The Committee also took up certain localized intimations which were not considered by the Insurance Company on the basis of invalid land details, khasra numbers and KCC details not available, incomplete information in loss intimation and ordered the same to be treated as minor mistakes and liability was thus imposed upon the Insurance Company.

The petitioner Insurance Company has averred that the version of the petitioner-Insurance Company has not been considered by the State Level Grievances Redressal Committee and the Insurance Company had been directed to settle 3147 claims. Letter dated 26.08.2021 with respect to the meetings of State Level Grievances Redressal Committee to be held on 03.09.2021 was served upon the petitioner-Insurance Company wherein again it is alleged that the version of the petitioner-Insurance Company was not considered. The decision thereof is a subject matter of challenge in the present petition.

The present set of writ petitions are thus filed by the Insurance Companies against the issues where the Insurance Company has been held liable and by the banks against the issues where the liability has been fastened on the respective banks. The tabulation of the respective claims is extracted as under:-

PRADHAN MANTRI FASAL BIMA YOJNA CASES

S.NO	CASE NO. & NAME	IMPUGNED ORDER DATE	PETITION FILED BY BANK	PETITION FILED BY INSURANCE COMPANY	RESPECTIVE HEAD UNDER WHICH LIABILITY IS FASTENED
1	CWP No. 2282 of 2022 – Agriculture Insurance Co. Of India Ltd. Vs. State of Haryana & Ors.	14. 01. 2021 & 03.09.2021	No	Yes	The Committee has directed the Insurance Company to Pay the claims under the head of "Minor Mistake Claims".
2	CWP No. 12041 of 2021 – Punjab National Bank Vs. State of Haryana & Ors.	14.01.2021	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.
3	CWP No. 7106 OF 2021 – Sarva Haryana Gramin Bank Vs. State of Haryana & Ors.	14.01.2021(Annexure P-2)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not

					uploaded on Portal.
4	CWP No. 17171 of 2021 – State Bank of India Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-2)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.
5	CWP No. 18296 of 2022 – Canara Bank Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-2)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.
6	CWP No. 1658 of 2022 – Central Bank of India Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-2)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.

7	CWP No. 3062 of 2022 – IDBI Bank Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-2)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.
8	CWP No. 2668 of 2022 – Union Bank of India Vs. State of Haryana & Ors.	30.11.2021 (Annexure P-4)	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of:- (1) The Bank has failed to enter the details of the farmers on National Crop Insurance Portal (NCIP). (2) (3) The Bank has sent the Premium to Wrong Insurance Company situated in another District (Banks in Sonipat Deducted the Premium and sent the amount to Insurance Company in Panipat).
9	CWP No. 13097 of 2022 – Bajaj Allianz	12.03.2020 (Annexure P-1) against the Award passed by Permanent Lok Adalat,	No	Yes	Due to heavy rain wheat crop of the Respondent got damaged and Insurance

	General Insurance Co. Vs. Suresh & Ors.	Jind.			Company was held liable to pay the compensation for the Loss suffered by the Respondent.
10	CWP No. 12816 of 2022 - Bajaj Allianz General Insurance Co. Vs. Ramesh & Ors.	12.03.2020 (Annexure P-1) against the Award passed by Permanent Lok Adalat, Jind.	No	Yes	Due to heavy rain wheat crop of the Respondent got damaged and Insurance Company was held liable to pay the compensation for the Loss suffered by the Respondent.
11	CWP No. 10763 of 2023 – Bank of Baroda Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-6).	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.
12	CWP No. 21459 of 2021 – Punjab & Sind Bank Vs. State of Haryana & Ors.	14.01.2021 (Annexure P-4).	Yes	No	The Committee has directed the Bank to Pay the claims under the heads of :- (1) Village Mis-match; (2) Crop Mis-match; (3) Data not uploaded on Portal.

Separate written statements have been filed on behalf of respondents No.1 and 2 i.e. the State of Haryana wherein the respondent State of Haryana has not disputed the facts as narrated above and the operational guidelines with regard to the PMFBY including the revised PMFBY operational guidelines. It is averred that the Insurance Company is the implementing agency in the said Scheme and has to function as per the Scheme provisions and the Government Guidelines. As per the operational guidelines issued in the year 2016, Clause XXIV (4) (e), it is provided that the lead bank has to ensure that all eligible crop loans are fully insured and no farmer should be deprived of the insurance cover. Said clause is extracted as under:-

> *"e) Lead bank/ Nodal Banks should ensure that all the eligible crop loans/seasonal operational loans taken for notified crop(s) are fully insured and the conditions stated in the declarations submitted have been complied with. No farmers should be deprived from insurance cover. Nodal banks therefore, should make all out efforts and pursue their branches for enrolling all eligible loanee farmers and interested non-loanee farmers under crop insurance. In case, claims have arisen during crop season then respective bank and its branches would be responsible to make payment of the admissible claims to loanee farmers who were deprived from insurance cover to their crops."*

Subsequently, the said guidelines were revised in the year 2018 wherein condition No.17 (2) regarding the provision for submitting physically/electronically details about the Insurance unit, sum insured per

unit, premium per unit, total area insured of the farmers, number and category of the farmers covered (small and marginal and other) etc.

After receiving the application, the concerned bank(s) is/are required to upload the details of each individual insured farmer's data mandatorily on the National Crop Insurance Portal. If the concerned bank(s) fails to upload the data on the portal, the bank is responsible for payment of claims to the concerned farmer. Condition 17.2 of the revised PMFBY Guidelines is extracted as under:-

> *"Consolidated declaration /proposal formats to be submitted physically/electronically by nodal banks/branch shall contain details about insurance unit, sum insured per unit, premium per unit, total area insured of the farmers, number and category of farmers covered (small and marginal or other) and number of farmers under other categories sc/st/others)/ women along with their bank account details etc. (bank/their branches) as per the application form provided on the National Crop Insurance portal. Banks are required to upload the insured farmer's data mandatorily on the National Crop Insurance Portal. No other platform shall be used for uploading/submission of famers' data. Those farmers' whose data is uploaded on the National Crop Insurance Portal shall only be eligible for insurance coverage and accordingly the premium subsidy will also release. In cases where farmers are denied crop insurance due to incorrect/portal/non-uploading of their details on portal, concerned banks/intermediaries/ shall be responsible for payment of claims to them."*

Reference is also made to Condition No.35.5.2.8 as per which the Nodal Banks/Administrative Officers/Bank Branches are also required

to upload the details of each individual on the National Crop Insurance Portal. The relevant condition is extracted as under

> *"35.5.2.8-The Nodal Banks/ Administrative offices/ Bank Branches shall also upload the details of each individual insured farmer on National Crop Insurance Portal through web-form or CBS on or before final cut-off date."*

It was also averred that Government of Haryana issued notification regarding area, crops, indemnity level, sum insured, premium rates and seasonality discipline etc. and condition No.18 thereof provided monitoring of the Scheme. Clause XXI thereof reads thus:-

> *"xxi) Time frame for loss assessment (Preventing Sowing, Localized risks, mid-term adversities, post-harvest loss) and submission of report:*
>
> *(a) The Insurance Company shall appoint loss assessors for assessment of losses due to localized risk in accordance with IRDI Provisions.*
>
> *(b) Shall appoint loss assessor within 48 hours of reporting of localized risk.*
>
> *(c) Shall complete the loss assessment process within next 10 days.*
>
> *(d) Shall settle the claim in the next 15 days failing which Rs. 10000/- penalty will be imposed per case in addition to the claim amount.*
>
> *(e) The assessment of affected area shall be done in terms of percentage of sum insured."*

It was averred that the Government had issued Notification for implementation of the PMFBY during Kharif-2019 and Rabi 2019-20 as per the administrative approval and implementing agency for the clusters.

On the basis of the said guidelines, further guidelines were issued by the Insurance Companies to the Bankers and controlling agencies. The PMFBY had been revised and relevant part of the revised guidelines is as under:-

> *"A. All the farmers including sharecroppers and tenant farmers growing the notified crops in the notified areas are eligible for the coverage under the scheme.*
>
> *B. The scheme is compulsory for loanee farmers i.e. all the farmers availing seasonal Agriculture Operations (SAO) loans from the Financial Institutions (FIs) for the notified crops would be covered compulsory. The concerned banks/bank branches must upload individual farmer-wise details on National Crop Insurance portal (www.pmfby.gov.in) and remit the farmer's share of premium within the prescribed cut- off dates. As per the provisions of the scheme, AIC/Implementing Agency disburses the claims, if any, to the Fls and in turn. FIs credit the same in respective farmers account. As per the scheme, only farmers whose data is uploaded by their banks on the National Crop Insurance Portal shall be eligible for insurance coverage and the premium subsidy from the State and Central Government is released accordingly.*
>
> *C. The scheme is optional for non-loanee farmers. Non loanee farmers are required to submit necessary documentary*

evidence of land records and/or applicable contract/ agreement details/ other documents notified/ permitted by the concern State Government (in case of sharecropper's/ tenant farmers.) Their coverage details are also required to be uploaded on National Crop Insurance Portal (www.pmfby.gov.in) by the concerned bank branch, CSC or authorized channel partner/directly by farmer online etc.

D. As per the provision of the scheme, the sum insured per hectare for both the loanee and non-loanee farmers will be the same and equivalent to the Scale of Finance as decided by the District Level Technical Committee and would be pre-declared by the State Level Co-ordination Committee on crop Insurance (SLCCCI) and notified in Notification."

It is further averred that the State Level Coordination Committee co-ordinates with the State of Haryana in the implementation of crop insurance and that the record is being maintained by the Department Of Agriculture. As per provision 17.11 of the said Scheme, an Insurance Company is required to verify the details of the individual insured farmer's uploaded on the portal, premium and consolidation declaration received from each branch/nodal bank and to report the mis-match to the branch. The nodal bank is further required to upload the relevant information on the clarification within 07 days and if the needful is not done within the stipulated period, the Insurance Company may recommend action against the nodal bank to the State Government.

Provision 17.13 of the Scheme mandates the Insurance Company to compulsorily verify and take necessary action including the approval/rejection of the approval within the stipulated date i.e. cut-off

date for verifying the data and after stipulated period for re-conciliation and obtaining further clarifications from stakeholders, all pending proposal/information of the insured/covered farmers uploaded on the National Crop Insurance Portal will be treated as approved. The Insurance Companies thereafter cease their rights for further verification of the farmers' data. Any losses to the Government including excess payment of premium subsidy due to delayed/non-verification of the data/information of individual covered will be recovered from the concerned Insurance Company. The banks are required to ensure distribution of acknowledgement receipt along with Folio to each insured farmers within 07 days.

It is further averred that for the cluster in present dispute, the banks were to deduct the premium of the loanee famers and the same was to be forwarded to the Insurance Company. There were discrepancies with respect to various data details uploaded and in reference to the Districts in the said cluster. Hence, the matter was put up before the State Level Grievance Committee for settling the claims of the concerned farmers. Representatives of the banks, the insurance company and that of Department participated in the said meeting and the SLGC gave directions to the petitioner to settle/make payment to certain farmers whose crop had been damaged in its meeting held on 14.01.2021. A second meeting of SLGC was held on 03.09.2021 and after hearing the concerned parties, the directions were given to the petitioners to settle the claims of certain other farmers.

It is averred that the petitioner-Insurance Company had received the premium for the crops from the concerned farmers but when the crops were damaged, the claims were repudiated to escape the liabilities and the premium was ordered to be returned. Once the premium had been accepted and remained deposited with the petitioner-Insurance Company, it became bound to settle the claims and grant compensation as envisaged under the guidelines issued under of PMFBY. It is averred that the directions given by the State Level Coordinate Committee in its meeting held on 14.01.2021 and 03.09.2021 were proper and that the writ petitions deserve to be dismissed.

Separate written statement had also been filed on behalf of the Punjab National Bank who is impleaded as respondent No.5 in CWP-2282-2022 and is also a petitioner in CWP-12041-2021.

There was no dispute raised with respect to the factual aspects noticed above and the conditions mentioned under the PMFBY with respect to collection of proposal and premium from the farmers. Reliance was placed on Clause 17.11 of the operational guidelines pointing out the action to be taken by the Insurance Companies after the premium is paid to them by the banks. The same is extracted as under:-

> *"Insurance Companies should also reconcile the details of individual insured farmers uploaded on the Portal with the premium/consolidated declaration received from each branch/nodal bank within the stipulated date and any deficiency/ mismatch may be reported to concerned bank branch/nodal bank. The Bank Branch/Nodal Bank should further send/upload the requisite information in respect of*

> *such farmers for whom clarification has been sought, immediately within 7 days. If such rectification is not done/completed by bank branch /nodal bank within the stipulated period, Insurance Companies (Resp No 2 to 8) may recommend to take necessary action to State Govt. under intimation to Central Govt. State Govt. in consultation with SLBC may recommend suitable administrative action against such defaulting branch/bank. However, claims (if any) in such cases of such farmers shall be borne by the concerned bank only."*

It is thus submitted that the SLGC rightly held that the petitioner-Insurance Company is liable and that the writ petitions be dismissed.

Separate replies had also been filed on behalf of the State Bank of India-respondent No.6 as well as respondent No.4-Sarv Haryana Gramin Bank which is petitioner in CWP-7106-2021 taking the same stand. The averments are not being reiterated to avoid repetition.

No replication/rejoinder had been filed to the written statement(s) filed on behalf of the respondents.

Learned senior counsel appearing on behalf of the petitioner-Insurance Company has argued that as per the PMFBY Scheme/Guidelines, the data with respect to the land as well as the ownership and crop etc. was to be furnished by the banks. The respective banks being in possession of the relevant documents and the petitioner-Insurance Company having no source to verify or check the said details since the revenue record in the State of Haryana either has not been digitized or no access thereof has been provided to the Insurance

Company, hence, even though there is a provision for verification of the data, however, in the absence of any provision or uploading of the corresponding details on the Portal, the Insurance Company has no means to cross-check the same. The banks have never furnished access or information or even the documents to enable verification of the data uploaded on the Portal. Insurance Company thus only compares the information available on the Portal and points out any duplication pertaining to the area/village and any other mismatch. The cases in hand, however, reflect a lapse about the data discrepancy which is solely attributable to the bank(s). The contract of insurance is of utmost good faith and the obligation under the contract arise only with respect to property which is subject of insurance for which data is fed in the system. An Insurance Company would be deemed to have taken upon itself the risk and liability only with respect to the specific land described and in relation to the crop reflected and that in the event of the land description being invalid, it cannot be construed that the land or crop was nonetheless covered under the insurance policy. Any such construction would extend the insurance cover and the benefit to the people with the respect to the land/crop qua which no premium/payment has been received by the Insurance Company. Further, in reference to CWP-13097-2022 and CWP-12816-2022, it is held that the premium and the information had been furnished after the cut-off date and that the cut-off date can be extended only by the concerned Ministry. The bank(s) has(ve) to be held liable for not depositing the premium in time and any such claim has to be summarily rejected. The bank(s) can, at best, claim the premium so

deposited. It cannot fasten the liability despite non-payment of the premium.

Per contra, learned counsel for the respondent Bank(s) has argued that the Scheme stipulates verification of the information uploaded online by the Insurance Company and to communicate any discrepancy and/or data mismatch to the bank(s) within a specified period. The failure on the part of the petitioner-Insurance Company cannot be cited as a basis to deny their obligation especially when the respondent bank(s) has received the insurance premium and retained the same till the time when the claims were lodged. The act of the petitioner-Insurance Company in neither raising any dispute nor pointing out any discrepancy/mismatch within the prescribed time frame and further having retained the premium for the entire duration estops the insurance company from repudiating the claims and disowning its obligation to release compensation under the insurance scheme to the aggrieved party. The obligation of the bank(s) to furnish clarification arises only in a case where such mismatch/discrepancy is notified and that in the absence of such discrepancy/mismatch being notified, a presumption arises that the data has been verified by insurance company and that they had not found anything erroneous therein. The same would be then deemed to have been approved as per the scheme binding the Insurance Company. Hence, the insurance company cannot be permitted to take benefit of its lapse and to escape from performing its obligation notwithstanding the scheme document. The hardship, if any, with respect to the alleged handicap in verification of the uploaded data cannot be cited as a basis to avoid the responsibility as the said aspect

would call for the modification/rectification in the Scheme itself and that the bank(s), not being the author of the said Scheme, cannot be held liable for the difficulties faced by the Insurance Company in physical verification of the data or failure to have access to the digitized record, which the State Government is required to make available. The insurance company having chosen not to seek any modification of the scheme document and/or to raise any challenge to the same cannot be permitted to seek repudiation of the claims after having enjoyed the benefit of premium for a prolonged period. The liability, hence, is to be discharged by the insurance company itself and the bank(s) cannot be held liable to pay the same. It is further submitted by the parties that on an earlier occasion when a similar controversy arose, the stand of the State was different than the decision taken in the year 2021.

I have heard the learned counsel appearing for the respective parties and have also gone through the documents appended along with the present batch of petitions.

For the facility of reference, reference is required to be made to the minutes of the meeting of the State Level Grievance Redressal Committee (SLGC) held under the Chairmanship of respondent No.2 on 14.01.2021 as well as in the meeting held on 03.09.2021 which are impugned herein.

A perusal of the minutes of the meeting shows that the Joint Directors (Statistics) had informed that a total of 16126 grievances were pending since inception of the Scheme i.e. from Kharif 2016, for different

reasons wherein decisions had already been taken by the State and District Level Grievances Settlement Committee. 9648 cases were related to the banks while 5828 cases were related to the insurance company. 576 cases were rejected whereas 74 cases were found to be settled. The aspects as regards heavy work load on the banks and the difficulties in verifying individual crops/land/village details were also raised and considered. The discussions held in the meeting pertained to following accounts:-

> *"1.* ***Village Name Mismatch****: Joint Director (Statistics) informed that 3612 cases of different districts are of village name mismatch. The village mismatch are due to wrong village name entered by the bank on National Crop Insurance Portal (NCIP) where actually crop not sown by the farmer. Joint Director (Statistics) informed that in case of Shri Satpal Singh S/o Shri Jasbir Singh R/o Ghasitpur(126) village, the same record is in bank record but bank entered the village name Dukheri (161) instead of Ghasitpur on NCIP. He also appraised the house that as per the guidelines of PMFBY is very clear at clause no. XXIV(4) (e) for the year Kharif 2016 to Kharif 2018 of Operational Guidelines and clause no. 17.2 for the year Rabi 2018-19, Kharif-2019 and Rabi 2019-20 of Revised Operational Guidelines of PMFBY that concern bank branch is liable to pay the claim of affected farmers.*
>
> *After deliberate discussion, it was decided by the Committee that in above mentioned case the negligence of bank is shown clear cut and bank is liable to pay the claim to complainant. Committee also is in view that the decision is applicable in other 3612 similar cases. The District wise/Bank wise detail of farmers is at Annexure-1.*

*2. **Crop Mismatch**: Joint Director (Statistics) informed that in 163 cases of Hisar, Panipat, Faridabad, Sonipat, Jind& Gurugram District where insured crop and actual crop sown is different. Joint Director (Statistics) informed that in case of Shri Surender Singh S/o Shri Ran Singh R/o Shekhupur Majri (3) village the crop name as per form 3 (Survey report) is Cotton, the same is in bank record but bank entered the crop name Paddy (Dhan) instead of Cotton on NCIP. Therefore, wrong crop insured due to negligence of bank. It is also the responsibility of bank to upload the correct detail of crop on National Crop Insurance Portal (NCIP). Committee decided that bank is fully liable to pay the claim in above mentioned cases (as per clause given in point-1). The District wise/Bank wise detail of farmers is at Annexure-2.*

*3. **Premium submitted by Bank to Insurance Company after cut-off date**: Joint Director (Statistics) informed that 223 farmers of Bhiwani district for the season kharif 2017 are deprived from the benefit of the scheme due to Premium submitted by Bank to Insurance Company after cut off date. In the guidelines of the scheme clause no. XXIV(4)(f) that "If concerned Bank and It's branches keep the amount of premium collected beyond the defined timelines then they will be liable to pay interest (at prevailing rate of interest for saving account) for the delay period to the insurance company". These cases were already decided in SLGC held on 02.07.2019. Concerned Bank has shown the proof of remit premium to concerned insurance company in the SLGC meeting held on 14.01.2021. LDM Bhiwani informed that bank tried to pay the premium of these farmers on 14.08.2017 but due to some technical reason, the amount could not remit to insurance company due to transaction failure thereafter, 15.08.2017 is National Holiday and the amount paid to*

insurance company on 18.08.2017 only delay of 4 days. The premium is pending with insurance company till now. After discussion, Committee recommended to pay the claim by the insurance company i.e. ICICI Lombard GIC to concerned farmers as per above mentioned provision. Bank has to pay the saving interest for delay period to insurance company. The District wise/Bank wise detail of farmers is at Annexure-3.

4. ***Non-Availability of Aadhar****: Joint Director (Statistics) informed that 576 cases in Bhiwani and Panipat District where farmers not insured due to non availability of Aadhar. Chief Manager, SLBC Haryana apprised the house that some farmers deny to share the Aadhar and it becomes difficult to get Aadhar forcefully, which is mandatory for enrolment under PMFBY through Gazette Notification issued by Government of India on 08.02.2017. The District wise/Bank wise detail of farmers is at Annexure-4. The Committee decided that these cases considered as rejected.*

5. ***Data not uploaded on portal/premium debit after cut off date****: Joint Director (Statistics) informed that 5874 farmers are deprived from the benefit of the scheme due to data not uploaded on portal. The guidelines of the scheme mentioned in the responsibility of the banks at 35.5.2.8 that "The Nodal Banks/Administrative offices/Bank Branches shall also upload the details of each individual insured farmer on National Crop insurance Portal through web-form or CBS on or before final cut-off date" and 35.5.2.9 that "The Insurance Company shall acknowledge the receipt of farmers premium and declarations submitted by the banks and any clarification/ rectification sought by Insurance Companies should compulsorily be replied/addressed by the bank within 7 days.*

The banks should cross check with their record and aberrations, if any, should be brought to the notice of the Insurance Company immediately. If no response is received form bank within cut time / reconciliation period, the details submitted on the Portal shall be considered final no changes would be accepted later on. Insurance Company will thereafter act as deemed fit as applicable provisions".

After discussion, Committee recommended to pay the claim by the bank to concerned farmers. The District wise/Bank wise detail of farmers is at Annexure-5.

*6. **Minor Error**: During the meeting it was observed that 5604 farmers are deprived due to minor error."*

In the matters pertaining to minor errors, the farmers were held entitled to the benefits of the Scheme and Insurance Company was held liable to pay the same. Finally, in 9649 cases the bank(s), in 5827 cases Insurance Companies were held liable to pay the claims while 576 cases were rejected and other 74 cases out of the total 16126 cases were settled. The gist of the cases is tabulated as under:-

Sr.No.	*Category*	*No. of cases from the list of 7640 cases*	*No. of new cases*	*Total no. of cases*	*Decision of the Committee*
1	*Village Mismatch*	*2596*	*1016*	*3612*	*Bank have to pay the claim*
2	*Crop mismatch*	*0*	*163*	*163*	*Bank have to pay the*

					claim
3	*Premium submitted by Bank to Insurance Company after cut-off date*	*223*	*0*	*223*	*Insurance Company have to pay the claim.*
4	*Non-availability of Aadhar*	*0*	*576*	*576*	*Rejected*
5	*Data not uploaded on portal*	*4747*	*1127*	*5874*	*Bank have to pay the claim*
6	*Minor error*	*0*	*5604*	*5604*	*Insurance Company have to pay the claim.*
7	*Already settled*	*74*	*0*	*74*	*--*
	Total	*7640*	*8486*	*16126*	

In the meeting of the SLGC held on 03.09.2021, the issue pertained to review of the decision of the meeting held on 14.01.2021 and it was informed that the bank(s) had paid only 09 cases out of 8447. In view of the decision taken thereunder, a status report was sought from the respective banks and certain individual claims were revised after noticing the discrepancies as per the list attached.

The grievance in the present case raised by the bank is that they be absolved from the liability where the same has been fastened on them. The insurance company on the other hand, has approached this Court against the decision of the SLGC wherein it has been held liable to

compensate the farmers i.e. in relation to the minor discrepancies and where the premium has been received after the cut-off date. Hence, both these aspects i.e. the issue where the banks have been held liable and the issue where the insurance companies have been held liable are being dealt with separately.

Before proceeding further into the matter, the further relevant clauses which would have a material bearing on the respective liability are extracted as under:-

"OPERATIONAL GUIDELINES

Pradhan Mantri Fasal Bima Yojana
(PMFBY)

Revised

xxx xxx xxx

"2.5 Since the National Crop Insurance Portal has been conceptualized for auto administration and seamless flow of data/information/reports on real time basis, State Govt. would not be allowed to create/use separate Portal/website for Crop Insurance Purposes.

xxx xxx xxx

Insurance Company

xxx xxx xxx

6.3.1 Aadhaar has been made mandatory for availing Crop insurance from Kharif 2017 season onwards. Therefore, all banks are advised to mandatorily obtain Aadhaar number of their farmers and the same applies

for non-loanee farmers enrolled through banks/Insurance companies/insurance intermediaries.

xxx xxx xxx

6.3.3 All Banks have to compulsorily take Aadhaar/Aadhaar enrolment number as per notification under Aadhaar Act before sanction of crop loan/KCC under Interest Subvention Scheme. Hence, the coverage of loanee farmers without Aadhaar does not arise and such accounts need to be reviewed by the concerned bank branchy regularly.

17 Collection of Proposals and Premium from Farmers.

***17.1** The Nodal Bank system adopted under NAIS/NCIP wherein the implementing Insurance Company is not required to deal with all the loan disbursing points and instead deals only with designated Nodal banks, will continue under PMFBY only for Cooperative Banks, However, for Commercial Banks/RRBs, the individual bank branches shall act as Nodal branch for this purpose. The concerned Lead bank and Regional offices/Administrative offices of Commercial banks/RRBs will provide necessary guidelines to concerned bank branches and coordinate with them to ensure that all concerned branches compulsorily remit the farmers premium electronically through NEFT/RTGS to be routed through NCIP to concerned Insurance Companies and submit the consolidated proposals/information in prescribed format well within the stipulated cut-off dates and also upload the details of individual covered/insured farmers on National Crop Insurance Portal. Besides, for the coverage of non-*

loanee farmers only, Insurance Company may also use IRDAI approved micro insurance agents/ insurance intermediaries. However, details of such agents should compulsorily be submitted to State Govt. and Govt. of India well before the start of the season for creating their credentials and subsequent uploading of details of individual insured/covered farmers on Portal within stipulated timelines.

17.2 *Consolidated declaration/ proposal formats to be submitted physically/ electronically by Nodal banks/Branches shall contain details about Insurance Unit, sum insured per unit, premium per unit, total area insured of the farmers, number and category of farmers covered (small and marginal or other)and number of farmers under other categories(SC/ST/others)/Women along with their bank account details etc. (bank/their branches) as per the application form provided on the National Crop Insurance Portal. Banks are required to upload the insured farmers' data mandatorily on the National Crop Insurance Portal. No other platform shall be used for uploading/submission of farmers' data. Those farmers whose data is uploaded on the National Crop Insurance Portal shall only be eligible for Insurance coverage and accordingly the premium subsidy will also be released. In cases where farmers are denied crop insurance due to incorrect/partial/non-uploading of their details on Portal, concerned Banks/Intermediaries shall be responsible for payment of claims to them.*

xxx xxx xxx

> ***17.10*** *Insurance companies shall upload requisite information including necessary documentation in respect of non-loanee farmers enrolled through channel partner other than CSCs on the National Crop Insurance Portal within the stipulated date of coverage of non loanee farmers All intermediaries shall ensure that the documentation is complete in all respect before accepting the premium. It is the responsibility of the concerned Insurance Companies to collect/obtain any documentation of the insured farmers (both loanee and non-loanee) from the bank/financial institutions/ intermediaries/ agents if necessary for verification/acceptance of risk and also to facilitate the banks/ financial for institutions/ intermediaries/ agents to submit/ upload all requisite documents, the financial National Crop Insurance Portal within timelines.*
>
> *xxx xxx xxx*
>
> ***35.5.2.13*** *Banks should ensure that cultivator are not be deprived of any benefit under the Scheme due to errors/omissions/commissions of the concerned branch/ PACS, and in case of such errors, the concerned agencies shall have to make good all such losses."*

The other clauses have already been extracted in earlier part of the judgment.

It is evident from a perusal of the above salient guidelines of the Scheme that its objective is to support sustainable production in agriculture by providing financial support to the farmers to stabilize their income. The farmers whose data is uploaded on the National Crop

Insurance Portal was eligible for insurance coverage and premium subsidy from the State & Central Government.

Aadhar had been made mandatory for availing Crop Insurance and Banks had been advised to obtain the same.

The collection of proposals and premium, in the present set of cases, was being done by the lead Bank. A consolidated declaration was to be submitted by the bank containing details about the information mentioned in Clause 17.2-viz-sum insured -, premium per unit, total area of a farmer insured, No. and category of farmer and farmers of other categories. Only the farmers registered on the NCIP were eligible and where insurance denied due to incorrect details, the Bank would be responsible for them.

Clause 17.11 of the Scheme required Insurance Co. to reconcile the details of farmers uploaded on port with consolidated declaration & report mismatch & correct detail be uploaded by the Bank. If such rectification is not done then cases of farmers shall be borne by the concerned Bank. The Insurance Co. is required to verify & satisfy itself about the coverage & give acceptance to the application submitted. In case of any "substantial misreporting" by Nodal Branch, the concerned Bank shall be liable for the same. The obligation has been cost on Bank to ensure that cultivator is not deprived of any benefit. If discrepancy is not conveyed, it shall be a deemed approval under Clause 17.13 of the Scheme.

While the claim of the Insurance Co. is that if correct particulars are not furnished, only the Bank is liable to compensate the

farmer, the claim of the Bank is that the Insurance Co. was obligated to indicate mismatch/discrepancies and if none is conveyed, it is a deemed approval. The Insurance Co. received and retained the premium & utilized the same, it cannot deny the liability. The Insurance Company, however, contends that in the absence of any access to the supporting documents, there can be no verification of mismatch/discrepancies other than reconciliation of premium and those insured. The said aspect having not been denied by the Bank, the Insurance Company cannot be held liable for not being able to point out discrepancies.

The issue which arises, however, is as to whether every misinformation or discrepancy is sufficient to assume that only the Bank is liable or that only a substantial mismatch/mis-declaration must exist before Insurance Company can deny its liability to compensate. Clause 24 of the Scheme document, however, deals with Important Conditions or Clauses applicable for coverage of risks. Clause 24.2 therein cases the expression "substantial misreporting" by Bank for it to be liable. The use of such expression is significant since the said clause falls under "Important Conditions/Clauses applicable for coverage of risks". As per the Scheme & title, these Clauses being special & important, must be given priority over the other general conditions & the Clauses need to be harmoniously reconciled to give effective meaning to all conditions and not to render any Clause superfluous.

Even though the Bank has rested its entire case on absence of pointing out any mismatch or discrepancy culminating into deemed approval, however, it does not dispute that the documents to substantiate

details submitted along with the proposal form were not uploaded. There is also no denial of the fact that the Insurance Company did not have any access to any digitized revenue record. The above said aspects are hence also required to be kept in mind.

At the same time it is also noticeable that Clause 17.2 of the Scheme guidelines requires consolidated declaration to be furnished by the Bank and described "sum insured per unit, premium per unit, total area, no. and category of farmer along with account details." However, in Clause 17.11, when obligation of Insurance Company to reconcile details is concerned, the reconciliation is about the premium with the consolidated declaration. There is thus a marked & noticeable deviation of declaration to be made vis-a-vis the reconciliation to be done by the Insurance Company. Similarly Clause 17.12 also talks about verification & satisfaction about coverage of farmers/crops & reconcile the same with premium receipt.

Both the above Clauses casting duty on Insurance Company use the expression verification of details with the premium & do not use the expression "satisfaction & verification of consolidated declaration & the particulars furnished thereunder". Two separate expressions that are distinct have been used in the Scheme document and have to be understood in the same light & context.

It cannot be assumed that even though different duties have been cast on the Bank for furnishing declaration and on the Insurance Company for verification, yet it must be read as same.

It is a cardinal principle of law that when a Statute or Scheme uses separate expressions, they have to be assigned different meanings. Literal interpretation rule requires each letter & phrase to be interpreted. Reading different and distinct contexts and language as synonyms would amount to violating the intent and rewriting the Scheme document. If the authorities intended them to mean one and same, the authority would have used the same expressions. The digression being conscious, has to be read and interpreted accordingly. The importance of important condition in Clause 24.2 has to be appreciated in the above background.

The contention of the Bank that the Insurance Company would be liable as per deemed approval is thus not based on correct reading of the Scheme document and is based upon reading said Clauses as one, which is improper reading as per law.

It now needs to be seen as to whether the Insurance Company can claim insulation and immunity from payment on every and any mis-declaration. Clause 24.2, however, uses the expression "substantial misreporting" for holding the Bank liable. Hence, as per the necessary inference that flows from the specific Clause (important condition) is that if misreporting is not substantial, the Bank cannot be held liable. The above interpretation reconciles all the Clauses and gives effect to all terms without doing violence to the Scheme document.

It is also required to be kept in mind that a contract of insurance is a contract of good faith and every material information which impacts the decision of insurance company to underwrite the risk or gives rise to an insurable interest in a property must be unambiguous and

specific. A clear description of property/insurable interest would disclose consensus amongst parties & exact nature of risk undertaken. However, the information required has to be material and not every discrepancy would be sufficient to repudiate or decline a claim.

Having held so, it is held that power of judicial review relates to illegality, impropriety, perversity or unreasonableness. The High Court does not sit in appeal over the said decision and supplant its reasons or sufficiency of reasons. Hence, where the objections have been considered and decisions reflect objectivity, the said decision is not to be interfered with merely because any other view is also possible.

The cases are hence being considered from different sets i.e. holding the Bank liable; and holding the Insurance Company liable.

Where the banks had been held liable

The authorities have held the bank liable in case where there is a village mis-match; crop mis-match or where data has not been uploaded. The above said information lays crucial foundation for contract of insurance and the nature of risk or property underwritten. The said information being primary would be substantial and any misreporting thereof would hold the bank liable.

For fastening of any liability on the insurance company, subject matter of insurance has to be well described. Where the subject matter is at variance, either by virtue of the location of the land i.e. the village or the description of the land or the crop description itself or in the circumstances where the due premium has not been transferred by the

concerned bank(s) to the insurance company, the insurance contract cannot be presumed to come into existence qua a different land and/or a crop which is not insured or where the premium has not been transferred. The obligation of deduction of the premium and transfer of the said premium to the insurance company, within the prescribed time along with uploading the correct details, has been cast upon the banks. The bank(s) cannot claim that notwithstanding its failure to submit the correct details, it be absolved of its obligation merely because the discrepancy had not been pointed out especially when the specific claim of the insurance company has been that the supporting documents on the basis whereof the uploaded information on the National Crop Insurance Portal could be verified had not been supplied to them and when the Insurance Company is also not obligated as already held above. Thus, the scope of re-verification was restricted. There was thus no occasion or possibility for the insurance company to verify the discrepancies in the information uploaded by the bank. In the absence of the requisite details, there was no occasion to doubt the data uploaded and if such uploaded data is factually incorrect, it would amount to creating legal liability and enforceability of a contract, despite the subject matter where the loss actually occurred, not being insured under the contract. Disregarding such discrepancy in the data uploaded by the concerned bank, (which charges percentage of premium for rendering services), would amount to recognizing existence of a valid contract and diluting the role, responsibility and obligation of the bank in uploading the correct information and reducing the requirement of uploading the data as a mere formality having no consequences.

The Scheme document has laid down the rules and responsibilities in detail and where the primary obligation for uploading the data has been cast upon the bank only for uploading of the correct information. Further, the bank having failed to provide access to the documents, on the strength whereof the information furnished on the portal could be verified, cannot wash away its hand by merely conveying that it has no further responsibility once the period prescribed for notifying the discrepancies is over. The bank having withheld the information from the insurance company would then be held bound for any consequential failure. The obligation is thus taken upon itself, by the concerned bank, that the information furnished by it on the national portal is correct and as per the records available with the concerned banks.

Where the Insurance Company held liable

In so far as the issue where the insurance company has been held liable i.e. where the cases which pertain to minor errors, the said errors are not substantial or in fundamental to the contract of insurance and are only in the nature of dispute pertaining to identification of the beneficiary and not the subject matter of insurance. The nature of minor discrepancies, are demonstrated in the table below:-

District	***Season***	***No of Case***	***Remarks***
Y/Nagar	*Kharif 2016*	*1*	*Payable but not paid by the ICICI Lombard Insurance Company*
	Kharif 2018	*84*	*Due to withheld State Share Subsidy against penalty imposed on Universal Sompo GIC Ltd.*
	Rabi 2018-19	*518*	*Due to withheld State Share Subsidy against penalty imposed on Universal*

			Sompo GIC Ltd.
Jhajjar	*Kharif 2018*	*69*	*During survey representative of Insurance Company not available. As per point No. 15 (d) (v) notification No. 941-Agri-II(I)-2018/4332, issued on dated 30-03-2018. The concern Insurance Company Universal Sompo GIC Ltd. is liable to pay the claim.*
Panipat	*Kharif 2018*	*35*	*Due to withheld State Share Subsidy against penalty imposed on Universal Sompo GIC Ltd. by the State Govt.*
Bhiwani	*Kharif 2019*	*98*	*Invalid Land Details.*
Sirsa	*Kharif 2019*	*2394*	*Killa/Muraba No. and KCC Detail not available.*
	Kharif 2019	*2095*	*Some information were missing in Form-1.*
Fatehabad	*Rabi 2018-19*	*3*	*Due to withheld State Share Subsidy against penalty imposed on Universal Sompo GIC Ltd. by the State Govt.*
	Kharif 2016 & Rabi 2016-17	*149*	*Payable but not paid by the ICICI Lombard Insurance Company*
Sonipat	*Kharif-2017*	*1*	*Farmer name mismatch*
	Kharif-2018	*1*	*Farmer name mismatch*
	Kharif-2017	*22*	*Payable but not paid by the Bajaj Allianz GIC*
	Rabi-2017-18	*4*	*Payable but not paid by the Bajaj Allianz GIC*
	Kharif-2018	*107*	*Due to withheld State Share Subsidy against penalty imposed on SBI GIC Ltd. by the State Govt.*
	Rabi-2018-19	*7*	*Due to withheld State Share Subsidy against penalty imposed on SBI GIC Ltd. by the State Govt.*
Gurugram	*Kharif 2018*	*11*	*Farmer name mismatch*
Kaithal	*Rabi 2017-18*	*5*	*Premium of crop deposited in time to insurance Company ICICI Lombard but insurance company replied that the farmer details is not uploaded on portal and till now premium is not refund by Insurance to bank LDM Kaithal told that all cases are uploaded on portal and there application ID is given below*

			(1053137486, 1053473723, 1053693493, 1053690196, and 1053164258)
Total		***5604***	

The nature of discrepancies are State share subsidy withheld proportionate to penalty levied by the state of the Insurance Company. If the penalty has been set off, the proportionate premium would be deemed paid. Other objections are about mis-match of name of farmers or farmer detail not uploaded though premium paid. Then a few relate to certain missing detail in Form-I life Killa Number or KCC details or the land detail in the claim is invalid. The same are mere ministerial irregularities and can be rectified and verified from the record already available with Insurance Company.

I am of the opinion that hyper-technical approach in such matters cannot be allowed. The benefits accrued in favour of a farmer cannot be withheld on account of a mismatch of name or irrelevant discrepancies in the uploaded information. Such minor discrepancies have no bearing so far as the subject matter of insurance is concerned. Not every or any discrepancy entitles insurance company to repudiate the claim. A discrepancy has to be of a magnitude as is fundamental to the contract of insurance and is material to an extent that it is a relevant factor for taking a decision to underwrite a risk or not. Any withholding of the subsidy by the State Government with a view to set off the penalty levied upon the insurance company etc. cannot be perceived as a valid reason for the insurance company to deny the liability as the issue with respect to the levy of penalty against the insurance company by the State Government has to

be resolved by the insurance company in the manner provided. Having chosen not to agitate the said issue in the manner prescribed, the insurance company would not be permitted to deny the liability of having to pay the insurance as the nature of the disputes are different. While the claim of subsidy is a claim inter se between the insurance company and the State Government, the claim under the PMFBY is a contract between the insured and the insurance company through the bank. There was no breach/default in the conduct of the bank and/or the farmers and that if the deduction had been made on account of any lapse on the part of the insurance company itself, it cannot wriggle out of the liability which ensues as a result thereof. Similarly, as is reflected from the table, the insurance company has failed to point out as to how any of the reasons cited therein were crucial for determination of the final liability and would have a bearing on the decision of insurance company itself. A play in joint is required to be prescribed in policies of such magnitude and where the discrepancies are not fundamental or basic to laying down the contractual obligations and prescribing the liabilities, the insurance company cannot be permitted to absolve of its liability.

Counsel for the insurance company has failed to point out if any crucial information, which was material and contrary to the consolidated declaration filed by the bank, was the basis for rejection of claim. The KCC detail only relates to the bank loan account and invalid land detail is about certain typographical mistakes in data entry and not in relation to the total area of the farmers, premium; sum ensured or crop-description. The petitioner has also not given any details of such minor

discrepancies in its pleadings as well. Hence, there can be no presumption of a fact that is not pleaded or established from the documents placed on record. The burden lay on the Insurance Company in its cases, and it failed to discharge the same. I find that there is hence no illegality, perversity or gross mis-appreciation of the terms and conditions of the PMFBY by the respondents.

I find that there are no sufficient grounds which would call for an interference by this Court. A mere minor discrepancy or certain irrelevant factual disputes cannot lay the foundation for undoing of a decision which is based on a valid interpretation and on equitable considerations of the rival claims and is in consonance with the terms and conditions of the Scheme.

Any attempt of making a suggestion not substantiated from the documents on record would be a disputed question of fact. The same having already been examined by the authorities, High Court would not venture in the disputed questions and has to accept the same to be minor discrepancies only.

The present petitions are accordingly dismissed.

Pending misc. application(s), if any, in the present batch of writ petitions shall also stand(s) disposed of accordingly.

A photocopy of the order be placed on the file of each connected case.

November 17, 2023 **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No