



2026:DHC:2392



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

Date of decision: 19th MARCH, 2026

IN THE MATTER OF:

+ **CS(COMM) 269/2019, I.A. 7461/2019**

M/S WORLDFA EXPORTS PVT LTD.Plaintiff

Through: Mr. Shashank Garg, Sr. Adv. with
Mr. Dinesh Sharma, Ms. Ritika
Jhurani, Mr. Abhishek Kandwal, Mr.
Prithvi, Ms. Nistha Jain, Ms.
Aaradhya Chaturvedi, Ms. Gauri
Bansal, Advs.

versus

NEW INDIA ASSURANCE CO. LTD & ORS.Defendants

Through: Mr. Prem Kishore Seth, Ms. Alana
Mohammed, Advocates.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Aggrieved by the letter dated 18.07.2018, issued by the Defendant No.1, repudiating the claim of the Plaintiff under a Standard Fire and Special Perils Policy, the Plaintiff has approached this Court by filing the present Suit seeking the following reliefs:

“a. Issue appropriate order/direction allowing the Instant Plaintiff;

b. Declare that the impugned letter/order of repudiation dated 18.07.2018 is illegal and void ab initio and the same be quashed and set aside.

c. Issue a money Decree directing the Defendant no.1 to pay to Plaintiff a sum of Rs. 4,69,99,729/- along with pre



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litigation interest amounting to Rs 1,51,12,022/- @18% p.a. on entire duration of delay in assessing the Plaintiffs claim till the filing of the suit and additional interest pendent lite and further interest till the date of actual payment.

d. Pass such other and further orders as may be deemed fit, just and proper in the peculiar facts and circumstances of the present case.”

2. Shorn of unnecessary details, the facts of the case, as discernible from the material on record, are as under:

- a. The Plaintiff took a Standard Fire and Special Perils Policy bearing No.31200011160100000432 (*hereinafter referred to as ‘the Policy’*), from the Defendant No.1, wherein the sum insured was Rs.6,60,00,000/-. It is stated that the Policy was effective from 01.03.2017 to 28.02.2018.
- b. It is the case of the Plaintiff that on the intervening night of 29/30.04.2017 a massive fire broke out at the Plaintiff’s premises located at Plot No.384, HSIIDC, EPIP, Kundli, Sonipat, Haryana, causing considerable loss to the building, machinery and stocks. According to the Plaintiff, the loss caused by fire was insured under the Policy.
- c. It is stated that the Plaintiff informed the Defendant No.1 about the incident and the loss caused by it. It is stated that on 01.05.2017 the Defendant No.1 appointed Defendant No.2 - M/s Atul Kapoor and Company, as a Surveyor to assess the loss.
- d. It is stated that the Defendant No.2 visited the premises of the Plaintiff for the first time on 02.05.2017.



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- e. It is stated that while the survey was well underway, the Defendant No.1 appointed M/s Truth Labs, a private Forensic Investigator, to determine the cause of fire.
- f. It is stated that M/s Truth Labs visited the premises of the Plaintiff on 16.05.2017 to collect the samples.
- g. In the meantime, the Defendant No.2/Surveyor conducted its survey by seeking information/details from the Plaintiff about the loss suffered by it.
- h. Material on record further indicates that Reports were received by the Defendant No.2/Surveyor regarding the structural status of the building after the incident. It is stated that Defendant No.2 informed the Plaintiff that the building may not require demolition. The Defendant No.2 also directed the Plaintiff to get an additional Report from a Government recognized agency and the same was obtained by the Plaintiff from Delhi College of Engineering which opined that the entire building be demolished and reconstructed for safety.
- i. It is stated that M/s Truth Labs submitted its Forensic Report to the Defendant No.1 on 20.10.2017 and the said Report was shared with the Surveyor without a copy of the same being provided to the Plaintiff. It is stated that since the Forensic Report was not shared with the Plaintiff, the Plaintiff filed an RTI Application seeking copies of the Survey Report and the Forensic Report.
- j. It is stated that the Surveyor also collected material from the Plaintiff.



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- k. It is stated that on 17.04.2018 the Plaintiff submitted its final bill and claimed Rs.10,35,48,376/- from the Defendant No.1.
 - l. It is stated that on 25.05.2018 Defendant No.2 issued its final Survey Report assessing the total loss of the Plaintiff, including the stocks, stainless steel items, textile items, building, etc., at Rs.4,69,99,729/-.
 - m. It is pertinent to mention here that Defendant No.2 has not relied on the Forensic Report of M/s Truth Labs in its final Survey Report dated 25.05.2018. However, the Surveyor/Defendant No.2 in its concluding remarks has stated that M/s Truth Labs was of the view that the cause of fire was not accidental and, therefore, the Insurer may keep this fact in its mind while deciding the liability.
 - n. Placing reliance on the Forensic Report of M/s Truth Labs wherein it had opined that the incident was caused by "*extraneously induced ignitable fire accelerants*" and not because of an electrical short circuit, the Defendant No.1, *vide* letter dated 18.07.2018, repudiated the claim of the Plaintiff herein.
 - o. Aggrieved by the same, the Plaintiff has approached this Court by filing the present Suit.
 - p. Though, the Plaintiff had claimed Rs.10,35,48,376/- from the Defendant No.1, but in the instant Suit, the Plaintiff has claimed for Rs.4,69,99,729/-, which is the loss assessed by the Defendant No.2/Surveyor.
3. It is the case of the Plaintiff that M/s Truth Labs had not been



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appointed by the Surveyor but by the Defendant No.1, who is the Insurer, and the same is contrary to the provision of Section 64UM of the Insurance Act, 1938. It is also contended by the Plaintiff that the Forensic Report of M/s Truth Labs cannot be accepted as out of 27 samples that it collected from the premises of the Plaintiff only 2 samples had been sent for analysis.

4. Summons in the Suit were issued on 21.05.2019. Written Statements have been filed by the Defendants.

5. In its Written Statement, Defendant No.1 has primarily relied on the Forensic Report of M/s Truth Labs. In the Written Statement it is stated that Defendant No.1 had every right to depute an Investigator to ascertain the cause of fire and no prior permission from the Insurance Regulatory and Development Authority of India (*hereinafter referred to as 'the IRDAI'*) is required. It is further stated that there is no specific bar in the Insurance Regulatory and Development Authority of India (Protection of Policyholders' Interests and Allied Matters of Insurers) Regulations, 2017 (*hereinafter referred to as 'the 2017 Regulation'*) in appointing such an Investigator by the Insurance Company to ascertain the genuineness and cause of the loss to determine the admissibility of the claim under the terms and conditions of the Policy. In the Written Statement it is not denied by the Defendant No.1 that Investigators are required to be IRDAI Surveyors or accredited/licensed Surveyors of the IRDAI.

6. In its Written Statement, the Surveyor/Defendant No.2 has stated that he is not a necessary party to the present proceedings as the object of the Surveyor is only to provide technical analysis in the form of opinion and it is for the Insurance Company to either accept the Report of the Surveyor or reject the same. Defendant No.2 has taken a specific stand that the claim of



the Plaintiff was rejected by the Defendant No.1 on the basis of the Forensic Report of M/s Truth Labs and not on the basis of the Report of the Defendant No.2.

7. On 11.05.2022, this Court framed the following issues:

“(i) Whether the repudiation of plaintiffs claim by the defendant No.1 vide letter dated 18th July, 2018 is illegal and void ab initio? OPP

(ii) Whether the appointment of M/s Truth labs as second Surveyor/ Investigator has been done in accordance with the IRDA Regulations? OPD

(iii) Whether the defendant no.2 has failed in his duty to ascertain the cause of loss? OPP

(iv) Whether the plaintiff is entitled to indemnification of Rs.4,69,99,729/- in terms of Standard Fire and Special Perils Policy along with interest pendente lite, pre-litigation interest amounting to Rs. 1,51,12,022/- and interest as per the IRDA (Protection of Policy holders' Interest) Regulations, 2002? OPP

(v) Whether the plaintiff is entitled to cost? OPP ”

8. On behalf of the Plaintiff, the Director of the Plaintiff – Parmod Gupta (PW-1) was examined. On behalf of the Insurance Company, Mr. Santosh Kumar Hembram, who is the Deputy Manager of Defendant No.1/Insurance Company, was examined as DW-1; Mr. Atul Kumar, who is the authorised signatory of Defendant No.2 herein, was examined as DW-2; and Mr. Ashutosh Kumar Shrivastava, who was the employee of M/s Truth Labs and had conducted the investigation, was examined as DW-3.

9. It is stated by the learned Counsel for the Plaintiff that the Investigator



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was not appointed by the Surveyor. He states that Section 64UM of the Insurance Act, 1938 specifically provides that no person shall act as a Surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015 unless the Surveyor possesses such academic qualifications as may be specified by the regulations made under the Insurance Act, 1938 or is a member of a professional body of Surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors. He states that unless the licence is approved by the IRDAI, any Surveyor is not competent to give any Report for an insurance loss.

10. He states that the Insurance Act, 1938 does not make any provision for the insurance companies to appoint an Investigator on its own and only a Surveyor under Regulation 13 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 can take an expert opinion wherever required. He states that Defendant No.1 has illegally appointed M/s Truth Labs as a Forensic Investigator and the same is in blatant violation of Section 64UM of the Insurance Act, 1938. He states that the Defendant No.1 does not have the authority to appoint a second Surveyor or call for an independent Report on its own whims and fancies. He further states that M/s Truth Labs is a private agency which is not accredited by the IRDAI and its findings lack credibility.

11. Learned Counsel for the Plaintiff further states that a perusal of the Surveyor's Report indicates that the Surveyor has assessed the loss at Rs.4,69,99,729/- and after adjustments, the Surveyor has assessed the total loss at Rs.4,46,49,743/-. He states that there is nothing in the Survey Report to state that the Surveyor was of the opinion that the fire was caused by



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"extraneously induced ignitable fire accelerants", i.e. "man made" or "induced by the Plaintiff". He states that the observations and verifications of the Surveyor's Report also does not state that fire was not a cause of short-circuit. He states that the Surveyor has only quoted the findings of M/s Truth Labs which was appointed by the Respondent No.1 herein and not by the Respondent No.2/Surveyor. He, therefore, states that going by the Surveyor's Report, the Plaintiff is entitled to the amount of loss as assessed by the Surveyor. Learned Counsel for the Plaintiff has also relied on Regulation 15 of the 2017 Regulations wherein it is stated that in case a Surveyor has to be appointed for assessing the loss claimed, it has to be appointed within 72 hours of the receipt of intimation from the insured and within seven days of claim intimation, the insurer/Surveyor has to inform the insured/claimant of the essential documents and other requirements that the claimant should submit in support of the claim. He further states that the said Regulation provides that the Surveyor is required to commence the survey immediately, and in any case within 48 hours of appointment unless prevented by contingency and an interim Report recording physical details of the loss must be prepared and forwarded/uploaded to the insurer at the earliest, but not later than 15 days from the first survey visit. A copy of this Interim Report must be supplied to the insured if requested. He states that the regulation imposes a time-bound statutory duty on the licensed Surveyor to submit a Final Report after completing loss assessment and the Surveyor should submit the Final Report within 30 days of appointment for simple claims and for complex claims, the regulation relaxes the outer limit to 90 days from appointment. Learned Counsel for the Plaintiff states that the Defendants delayed the claim for nearly 16 months thereby violating



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Regulation 15 of the 2017 Regulations.

12. *Per contra*, learned counsel for the Defendants state that the Insurer was within its right to repudiate the claim of the Plaintiff because the fire was not accidental but resulted from "man-made efforts" intended to achieve wrongful gain. He further states that Defendant No.1 was within its rights to appoint an Investigator to ascertain the actual cause of loss and the genuineness of a claim. He states that prior permission from the IRDAI is not required for such an appointment. Further, learned Counsel for the Defendants relies on the Report from M/s Truth Labs, which concluded that the fire was caused by "extraneously induced ignitable fire accelerants" rather than an electrical short circuit. He also states that the Plaintiff committed a fundamental breach of the insurance policy, which stipulates that benefits are forfeited if a claim is fraudulent or if the loss is occasioned by the wilful act or connivance of the insured. He further contends that any delay in processing the claim and submitting the Final Report was attributed to the "nature of loss," the need to examine voluminous documents, and enquiries from various authorities. He further submits that the delay is also attributed to the Plaintiff as he could not submit the required documents on time. He states that the "Final Claim Bill" was submitted by the Plaintiff nearly after a year from the date of incident. He further submits that Defendant No.2 is not a necessary or proper party to the present proceedings and be deleted from the array of parties as a Surveyor provides an independent technical analysis in the form of an opinion that is not binding on either the insurer or the insured. He states that there is no direct contractual relationship between the Plaintiff and the Defendant No.2.

13. Heard learned Counsels for the Parties.



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14. The Plaintiff has challenged the Impugned Letter/Order of Repudiation dated 18.07.2018 of the Defendant No.1 rejecting the claims of the Plaintiff claiming loss on account of a fire that broke out on the intervening night of 29/30.04.2017 at the Plaintiff's premises.

15. The said Letter/Order of Repudiation only relies on the detailed Report submitted by the M/s Truth Labs and an Investigator was appointed by the Defendant No.1. M/s Truth Labs in its Report dated 25.09.2017 has observed that fire which caused loss to the premises and stocks of the Plaintiff was not on account of electrical short circuit in a nearby electrical pole and not on the account of fire travelling through the stainless steel duct into the premises, but was on account of extraneously induced ignitable fire accelerants which was only used in huge quantity of stocks stored in the premises of the Plaintiff consisting of stainless steel products packed in corrugated boxes and polythene wraps, fabric yarns, etc. The said Report also records "taking into consideration the means, motive and opportunity to cause such fire, the possibility of the management or the staff members being directly or indirectly responsible for its ignition and propagation cannot be ignored". The Impugned Letter/Order of Repudiation also notices that the Surveyor although assessed the loss, but the Surveyor has also concluded that the cause of fire apparently is not accidental.

16. The Defendant No.1 has relied on Condition No.8 of the Policy taken by the Plaintiff which stipulates that the claim is found to be fraudulent or any false declaration is made or used in support thereof or any fraudulent means or devices are used by the insured or any one acting on its behalf to obtain any benefit under the Policy or either loss or damage is occasioned by the wilful act or the connivance of the insured, the benefits of the policy



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shall be forfeited. The Defendant No.1 repudiated the claim on the ground that the Plaintiff tried to manipulate the loss and has tried to make an unlawful case.

17. Section 64UM of the Insurance Act, 1938 stipulates the conditions necessary for being appointed as a Surveyor. Section 64UM of the Insurance Act, 1938 provides that Section 64UM(4) read with the Regulations provides that any loss more than Rs. 20,000/- can be admitted for payment or settled by an insurer unless he has obtained a Report on the loss that has occurred from a person who holds a licence issued under Section 64 UM to act as a Surveyor or loss assessor.

18. The Defendant No.2 in this case has been appointed as a Surveyor. The Surveyor/Defendant No.2 after conducting the investigation has given a Report on 25.05.2018. The Report also notes that the Defendant No.1 has appointed a Forensic agency, namely, M/s Truth Labs. There is nothing on record to indicate that the M/s Truth Labs is a Surveyor possessing the qualifications as stipulated under Section 64UM of the Insurance Act, 1938. Regulation 13 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 stipulates the duties of a Surveyor. Regulation 13(1)(p) of the said Regulations permits a Surveyor to take expert opinion wherever required. Admittedly, the Surveyor/Defendant No.2 has not taken the opinion of M/s Truth Labs.

19. Though the Plaintiff has claimed a sum of Rs.10,35,48,376/-, but the Surveyor has assessed the loss of Rs. 4,69,99,729/-. The Surveyor has also taken note of the Report of the M/s Truth Labs.

20. In the opinion of this Court, it cannot be said that the opinion of the M/s Truth Labs has been accepted by the Surveyor/Defendant No.2. Despite



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the findings of M/s Truth Labs, the Surveyor/Defendant No.2 has assessed the loss of Rs. 4,69,99,729/- on the basis of its own independent survey. In the absence of any material on record to indicate that the Investigator possesses the qualifications of a Surveyor as required under Section 64UM of the Insurance Act, 1938, the Report of M/s Truth Labs cannot be given any credence to.

21. In order to satisfy the conscience of this Court as to whether the fire was caused by "extraneously induced ignitable fire accelerants" or by short-circuit, this Court has examined in detail the cross-examination of DW-3, Mr. Ashutosh Kumar, the person who conducted the investigation on behalf of M/s Truth Labs.

22. A perusal of the cross-examination of DW-3 indicates that the Investigator though has taken 27 samples, but has given only 2 samples for analysis on the basis of which alone the findings have been derived by the Investigator. The Investigator also has candidly admitted that the Report given by the Investigator does not contain any reference to the condition of the building of the Plaintiff pursuant to the aftermath of fire and that the Report was prepared without considering the condition of the Plaintiff's building as it existed on the intervening night of 29/30.04.2017 when the fire incident took place. The cross-examination also reveals that the Investigator has also not acquainted himself with the financial health of the Plaintiff Company and that he has not even ascertained the conduct of the Plaintiff in the aftermath of the fire before attributing motive.

23. Relevant Question and Answers to questions No. 40, 41, 44, 46, 49, 50, 51, 55, 60, 80, 94, 96, 104, 105, 107 and 110 are reproduced as under:-

"Q.40 Is it correct to say that your Report dated 25th



September 2017 (Ex. DW-1/3) does not contain any reference to the condition of the Plaintiffs building destroyed in the immediate aftermath of the devastating fire on intervening night of 29th and 30th April 2017. What do you have to say?

Ans. It is correct.

Q.41 Is it correct to say that you had prepared the Report dated 25.9.2017 (Ex. DW-1/3) without considering the situation of the Plaintiff's building as it existed on the intervening night of 29th and 30th April 2017 (immediate aftermath of the devastating fire). What do you have to say?

Ans. It is correct.

Q.44 Can you please inform us which science laboratory has been set up by M/s. Truth Labs and is solely and entirely operated by them?

Ans. It is correct that M/s. Truth Labs does not have any science laboratory which is solely and entirely operated by them. M/s. Truth Labs has MOU with other Labs for testing.

Q.46 Would it be correct to state that the samples bearing No. 1 to 30 collected by you and your team on its visit to Plaintiff's premises on 16th May 2017 were sent for testing to LUCID Testing Lab Hyderabad?

Ans. Yes, it is correct.

Q.49 I suggest to you that having neither tested the samples bearing No. 1 to 30 nor having conducted "GC-MS ANALYSIS" and "stereomicroscope and Electrical Conductivity studies" you cannot depose the veracity of the results of the afore mentioned tests as mentioned in your Report dated 25.09.2017.



Ans. Yes, it is correct.

Q. 50 Can you tell us what was the nature and/or character of the "burnt debris" collected as sample No. 2?

Ans. I do not know about the nature of the burnt debris collected as sample No. 2 mentioned in Report dated 25.09.2017.

Q. 51 Can you tell us what was the nature and/or character of the "burnt debris" collected as sample No. 4?

Ans. I do not know about the nature of the burnt debris collected as sample No. 4 mentioned in Report dated 25.09.2017.

Q.55 Would it be correct to state that you have nowhere in your Report dated 25th September, 2017 mentioned the nature of the material lost in the fire and collected by you in samples bearing no. 1 to 26 except sample nos. 2 & 4?

Ans. It is correct.

(Vol.) Sample No. 1 to 26 were burnt material collected by me.

Q.60 Did you acquaint yourself with the financial health of the Plaintiff during your visit at the Plaintiffs premises?

Ans. No.

Q.80 I suggest to you that it was incumbent on you to ascertain the conduct of the Plaintiff in the aftermath of the fire, before attributing the motive of causing fire in your Report on the Plaintiff. What do you have to



say?

Ans. I have nowhere in my Report said that it was Plaintiff which had intentionally caused fire.

Q.94 I suggest to you that the Report dated 25.09.2017 (Exhibit DW-1/3) has been prepared by you without considering the nature of the material undergone Forensic analysis. What do you have to say?

Ans. Yes, it is correct.

Q.96 Can you point out from your Report what according to you was the origin of the fire?

Ans. Origin of fire is not mentioned in my Report.

Q.104 Did you verify the reason for the disruption of electricity at the electrical pole adjacent to the Plaintiff's premises on the intervening night of 29.4.2017-30.4.2017 i.e. the date of loss at the Plaintiff's premises?

Ans. Yes, electricity supply was disrupted in the nearby industries on the date of incident i.e. the intervening night of 29.4.2017-30.4.2017. It was verified as there was a storm on that day due to which electricity could have been disrupted at the electrical pole adjacent to the Plaintiff's premises.

Q.105 Would it be correct to state that the storm on the intervening night of 29.4.2017-30.4.2017 could have caused electrical short circuit at the electrical pole adjacent to the Plaintiff's premises?

Ans. It is correct.

Q.107 Would it be correct to state that in your Report you have accepted the version given by Mr. Rakesh Kumar, eye-witness to the incident?



Ans. Yes, it is correct.

Q.110 I suggest to you that finding in your Report that "extraneously induced fire accelerants" were used to cause fire is without any basis inasmuch as 24 samples did not contain any remanent of hydrocarbons. What do you have to say?

Ans. It is correct."

(emphasis supplied)

24. A perusal of these questions does not inspire any confidence in this Court accepting the Report of M/s Truth Labs. The Report is based only on the analysis of 2 samples without even considering the motive, financial health of the Plaintiff, leaves much to be desired.

25. What is more significant is that DW-3 accepts that the storm on the intervening night of 29/30.04.2017 at the Plaintiff's premises could have caused an electrical short circuit at the electrical pole. Further, a specific suggestion was put to DW-3 that M/s Truth Labs had not tested the samples bearing Nos. 1 to 30 and after not conducting the GC/MS analysis and stereo-microscope and electrical conductivity studies, the Investigator cannot depose the veracity of the results as mentioned in the Report. The Investigator accepted the abovementioned suggestion.

26. The Investigator has not been able to state the nature and character of the burnt debris collected as Sample No.2 or the nature or character of burnt debris collected as Sample No.4. Only chemical analysis of Sample Nos.2 and 4 was conducted by the method of Gas Chromatography and Mass Spectrography and chemical analysis of Sample Nos. 27 and 28 was conducted by the method of Stereo-Microscope Examination and for others



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nothing had been done.

27. In any event, when a specific question is put as to whether motive of setting the premises on fire can be deduced from the chemical analysis of the samples so collected, it has been accepted that the motive cannot be ascertained by the samples, without ascertaining the status of the building prior to the fire and after the fire. And also, without ascertaining the financial status of the Plaintiff Company before the fire. Further, there was no basis on which M/s Truth Labs could have given a Report that the fire was orchestrated by the Plaintiff or any other person.

28. In fact, it is pertinent to mention that the witness/DW-3 has accepted the version given by Mr. Rakesh Kumar, who was the eye-witness. Mr. Rakesh Kumar stated that there was a storm on the intervening night of 29/30.04.2017 at the Plaintiff's premises and a short circuit has been caused because of the storm. There is nothing in the Report to state that the storm could not have caused the short circuit leading to the fire.

29. DW-2 is the officer of the Surveyor, who has also not stated that M/s Truth Labs is a qualified Surveyor capable of conducting surveys and assessing loss or investigating into the incident of fire accident under Section 64UM of the Insurance Act, 1938.

30. Pertinently when a specific question was put to the Surveyor that the fire in question has originated from the electric pole outside the Plaintiff's premises, the Surveyor has answered that it could be possible. DW-2 was the witness of the Surveyor, has also not denied the statement of the eye-witness regarding the strong winds on the date of incident.

31. This Court would also like to reproduce the observations/verifications made in the Surveyor's Report and the same reads as under:

**OUR OBSERVATIONS / VERIFICATIONS**

1. During the survey we interacted about the circumstances with insured's representative. Mr. Rahul Bansal (Production Manger) and other representatives present during the survey. In this regards we obtained the written statement of eyewitness i.e., Mr. Rakesh, security guard (see Encl-3)
2. It has been observed that the stock of stainless steel & textile items kept in the insured premises was badly damaged due to fire/heat/smoke/water etc in the said incident.
3. In this regard, to record the possible evidence, we took several photographs and same is enclosed with this report.
4. The incident was also reported in the news papers and copies of the same are obtained from the insured (see Encl-4)
5. We also obtain the conveyance deed of affected location from insured in regards to the ownership proof of the said premises (see Encl-7)

LOSS CLAIMED

The insured submitted their final claim bill of Rs.10,35,48,376 /- for damaged properties as under:-

S NO.	DESCRIPTION	AMOUNT (IN RS)
1	Stocks	77,869,927
2	Building	24,924,450
3	Other Expenses (like fire fighting etc)	753,999
	TOTAL	103,548,376/-

In this regard the insured had submitted the claim bill (refer Encl-1) and claim form (See Encl-2).

BASIS OF ASSESSMENT**FOR STOCKS**

During our survey, insured reported that no inward/ outward registers are maintained at gates of both units. Further, insured reported that they maintained (at unaffected location i.e., plot no. 449-450) inward/outward sheets on daily basis which were reportedly further submitted to accounts section on daily basis where they usually destroy the paper after entering the record of sale & purchase in computer.

Insured also further reported that they do not maintain any record for transferring the material between the 2 units of the company. All the material transferred within the units was reportedly shifted on rough slips which are also reportedly destroyed after shifting the material. Insured did not even furnish any item wise stock records / stock registers of the stocks lying at the affected



The insured indicated that weight wise details of utensils were recorded in their excise register (i.e., RG-1) in which stock of both the insured locations were stated to be included (without any location-wise bifurcation), but we noted that the affected location was reportedly not registered with the excise authorities and thus since the registration was only for the main factory of the insured located at the un-affected location, thus the excise RG-1 could be taken as stock record of the unaffected location only. In view of the above, our assessment is based on the quantities physically identified during our visits and those disposed by the insured in the salvage.

For stock items insured has claimed the following type of stocks

1. Stainless steel finished goods
2. Textile Finished goods & textile Material (Raw material)

For Stainless Steel Items:-

In regards of quantity of stainless steel items claimed insured has furnished us item wise claim bill along with the weight of claimed items (See Enc-1, pg-2 to pg-6). The weight of the claimed items has been compared with the quantity / weight of stainless steel items lifted during the salvage as detailed in Ann-3 and lower of these has been considered in our assessment as detailed in attached Ann-2.

In regards of rate of the claimed items for stainless steel utensils several sale bills were provided by the insured from 01.04.2017 till 29.04.2017 and based on the same average sale rate per Kg of stainless steel items has been calculated and after reducing the gross profit margin and un-incurred expenses (like freight outwards, packing, etc) the average cost rate per kg has been calculated as detailed in Ann-4 and the same has been compared with the average claimed rate and lower of the same has been considered in the assessment as detailed in attached Ann-2. Based on the considered rate and qty, considered value has been calculated and the same has been compared with the total claimed value and lower of these were considered in the assessment as detailed in attached Ann-2.

For Textile Items:-

As stated above insured did not provide any stock record for the claimed items. Thus in regards for the quantity claimed for the textile items was restricted to the quantity (weight) of textile items lifted during the salvage as detailed in Ann-3A.

As during lifting of salvage it has been observed that the material lifted in salvage is finished goods thus for calculating the cost of the claimed items, several sale bills were provided by the insured from 01.04.2017 till 29.04.2017 and based on the same average sale rate per Kg for textile items has been calculated and after reducing the gross profit, cost rate has been calculated as detailed in Ann-4A. And based on the considered rate and considered qty considered value for textile items has been



calculated and same is compared with claimed value of textile items and lower of the same has been considered in the assessment. Allowance has also been made for un-incurred expenses, slow moving stocks and other variations, as explained earlier in respect of utensils.

Insured also claimed the export incentives on claimed stocks. These export incentives are generally received after the export sale but as these items were not sold and damaged due to the fire incident thus export incentives are not received by the insured on these claimed stocks. However it was noted that loss of export incentives claimed by the insured is a consequential loss to the insured and this loss is not directly due to fire incident thus export incentives claimed by the insured was not considered in the assessment, as the entire cost has been considered. However, in light of the above, we have also not considered export incentives while calculating the GP rate.

A deduction of 5% has been considered as slow moving/dead stock etc. and deducted from the allowed value for stocks items.

Regarding salvage, we obtained several quotes and based on the maximum quotes the salvage value is more than 5 lacs thus as per norms of the insurers, salvage tendering process has been carried out for the claimed items with approval of the insurers. Through this tendering process, salvage was sold by the insured to the highest bidder and net salvage value for stocks (& building) has been calculated after deduction of the expenses (like salvage disposal fee and advertisement expenses) as detailed in Ann-5. The loss for stock has been assessed accordingly as detailed in attached Ann-2.

FOR BUILDING

Insured submitted the detailed test report from the structural engineer and as per the report the building has to be reconstructed and beyond repair (See Encl-9) Quotation of reconstruction of building has also been obtained. Based on the covered area and rate as per quotation (which was considered reasonable), loss value of building has been calculated in the attached Ann-6 and the same has been compared with the insured's claimed value and lower of the same has been considered in the assessment. Insured did not provide any age proof of the building, thus based on the condition of the building, depreciation for RCC portions @ 33.33% and on shed portions @ 50% was considered reasonable in the assessment and net salvage value (as detailed in see Ann-6) as per tendering process has also been deducted. Accordingly assessed loss of building has been calculated in attached Ann-6.

FOR OTHER EXPENSES:-

Insured has also claimed other expenses like fire fighting charges, advertising charges & salvage disposal fee etc as detailed in Ann-7. Fire fighting expenses and salvage disposal costs have been included to the extent supported with evidences as stated in attached Ann-7.

**ASSESSED LOSS**

Based on the above the loss is assessed at Rs. 4,69,39,729 /- (Rupees Four Crore Sixty Nine Lacs Ninety Nine Thousand Seven Hundred And Twenty Nine Only) as detailed in attached Ann-1, subject to remarks at the end of this report.

ADJUSTED LOSS**FOR STOCKS**

Since it was the case of total loss thus value at risk has been considered based on the gross assessed loss and it has been noted that value at risk is lower than the sum insured thus average clause is not applicable in this head as detailed in attached Ann-1.

FOR BUILDING

Since it was the case of total loss thus value at risk has been considered based on the gross assessed loss and compared with the sum insured for calculation of average clause as detailed in attached Ann-

As per policy excess of 5% of the claim is applicable thus after deduction of suitable excess the adjusted loss works out to Rs.4,46,49,743 / - (Rupees Four Crore Forty Six Lacs Forty Nine Thousand Seven Hundred And Forty Three Only) as detailed in attached Ann-1, subject to remarks below.

REMARKS

1. As stated above, the insurers had appointed M/s. Truth lab for forensic investigation of cause of loss and as per conclusion in truth lab report the said fire was :-

QUOTE (from Truth Lab Report):

- a) Not on account of electrical short circuit in the nearby electrical pole
- b) Not on account of fire travelling through the stainless steel duct into the premises
- c) But was on account of extraneously induced ignitable fire accelerants as revealed in the GC-MC analysis, which was used on the huge quantity of stock stored inside the premises consisting of stainless steel product packed in corrugated box and polythene wraps, fabric yarn etc.
- d) Taking into consideration the means, motive opportunity to cause such a fire, the possibility of the management or the staff members being directly or indirectly responsible for its ignition and propagation cannot be ruled out



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We noted that the address mentioned on the policy was "Plot No.384, 1st, 2nd, 3rd Floor, HSIIDC, EPIP, Kundli, Sonapat, Haryana-131028" but in actual fact the entire building including the GF was reportedly occupied by the insured. Thus though the upper floors have been mentioned in the policy but the omission of the GF on the policy face appears to be a clerical error which the insurers may confirm from their underwriting records

3. During our 1st visit, insured indicated that they had only one claim in the past which reportedly occurred on 17th May 2013 at Plot no. 449-450, EPIP Kundli. However based on our independent verifications, it was noted that insured had apparently suffered one more loss on 25th October 2012 but had not informed about the same. Upon subsequent query, insured reported that the said loss (i.e., of 25th October 2012) was not informed to us at the time of our visit as the same pertains to a different insurance company i.e., M/s United India Insurance Company Limited. Confirmation of the insured in this regard was provided to us on 23rd May 2018 and the same is attached at Encl-14

In view of above findings of Truth Lab, they are of the view that the cause of fire is apparently not accidental and hence the insurers may keep this in mind while deciding on their liability.

32. Though, it is now settled law that the Surveyor's Report is not conclusive and the Insurance Company may or may not accept the Surveyor's Report. It is also settled law that very valid reasons have to be given by the Insurance Company as to why the Surveyor's Report cannot be accepted. The Impugned Letter/Order of Repudiation does indicate that the Surveyor has assessed the loss. However, it adds a line that the Surveyor has also concluded that the cause of fire is not accidental, a fact which is not available in the Surveyor's Report. The Surveyor has not found that the cause of fire is not accidental. The Surveyor only states that there is a Report of M/s Truth Labs stating that the fire is apparently not accidental.

33. Since the Defendant No.1 has only relied on the M/s Truth Labs Report which does not inspire confidence in this Court apart from the fact that it has been given by a person who is not qualified under the Insurance Act, 1938 and in the absence of any other reason given by the Insurance Company as to why it is not accepting the loss as assessed by the Surveyor,



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this Court is inclined to pass a decree in favour of the Plaintiff for a sum of Rs. 4,69,99,729/-.

34. The Defendant No.1 is directed to pay the said amount within a period of 08 weeks from today.

35. The Defendant No.1 is also directed to pay interest on the said amount which is at 6% per annum from the date of Surveyor's Report till the date of payment.

36. With these directions and observations, the present Petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 19, 2026

Rahul/JR