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C.A.No. 7670 OF 1996

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~ ITEM NO. 104 COURT NO.6 SECTION XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.7670/1996

New India Assurance Co. .. Appellant (s)

Vs.

Mono Rail Wheels & Ors. .. Respondent(s)
(With appln(s) for stay)

DATE : 30.1.20001 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) : Mr. S.K. Paul, Adv.
Mr. Salil Paul, Adv.
Ms. Indra Sawhney, Adv.

For Respondent (s) : Mr. S.P. Mathur, Adv.
Mr. Sushil Kumar Jain, Adv.
Ms. Pratibha Jain, Adv.

Mr. Shiv Kumar Suri, Adv. (NP)

UPON hearing counsel the Court made the following
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The appeal is dismissed subject to what is stated in
the signed order.

.SP1 Charanjit [R.K. Kumar]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7670/1996@@
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New India Assurance Co. .0 Appellant

Vs.

Mono Rail Wheels & Ors. .. Respondents

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An application under Section 20 of the Arbitration Act, 1940 was filed by respondent No.1 in the Court of District Judge, Jaipur for referring the dispute with the appellant to arbitration. On notice being issued, the appellant filed objections to the effect that respondent No.1 had obtained insurance policy from the appellant in respect of building for Rs.7,00,000/-, plant & machinery for Rs.30,00,000/-, goods kept in premises for Rs.9,00,000/-, thus the total insured value was Rs.46,00,000/-. It is alleged that on 29.7.1990 the insured premises was gutted under fire and the appellant got the matter investigated on information being furnished by respondent No.1 through Shri Brahm Dutt Gupta, who made a report on 4.9.1990 and after his report was received another Surveyor, Shri G.K. Jain inspected the site and he filed a report after getting some papers signed by respondent No.1 assessing the loss at Rs. 68,000/-, while the claim of the respondent was for Rs.17,00,000/-. The respondent did not accept the loss at Rs. 68,000/- and filed a petition before the National consumer Forum which was, however, dismissed. Thereafter an application under Section

20 of the Arbitration Act, 1940 was filed. The appellant admitted that the factum of insured premises was gutted as a result of fire accident and contended that the Surveyor had settled the claim for Rs.68,000/- after discussion with respondent No.1 and, therefore, no dispute existed any longer and, hence the application was not maintainable. But the contention of respondent No.1 was that he had not agreed to the settlement in any manner and, therefore, the court found that there was still a dispute in existence and on that basis, it proceeded to refer the matter to Arbitrator for decision in terms of clause 13 of the insurance policy. Against that order a revision petition was filed before the High Court and the High Court dismissed the said petition. Hence this appeal.

It is now brought to our notice that the Arbitrator had entered upon the arbitration before whom the parties have made their respective claims and participated in the proceedings. One of the points for determination by the Arbitrator was whether respondent No. 1 had settled the claim

in full and final settlement for Rs.68,000/-. The Arbitrator had made the award on 12.3.1995 and is now pending consideration for passing decree in terms thereof. Whatever grounds are urged in this appeal could also be raised in the objections under Section 30 of the Arbitration Act. We,

- 3 -

therefore, find no justification to interfere with the order made by the High Court. If the appellant files before the court, objections as aforesaid within a period of four weeks from today, the same shall be considered in accordance with law.

This appeal is, therefore, dismissed subject to what is stated above.

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[S. RAJENDRA BABU]@@
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[S.N. VARIAVA]@@
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New Delhi,@@
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January 30,2001 @@
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