

2022 LiveLaw (SC) 303

IN THE SUPREME COURT OF INDIA

HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.

Special Leave to Appeal (C) No(s). 3978/2022; 11-03-2022

THE ORIENTAL INSURANCE COMPANY LIMITED VERSUS SANJESH & ANR.

Indian Contract Act, 1872; Section 28 - Insurance - Condition of lodging Insurance claim within a period of one month, extendable by another one month is contrary to Section 28 of the Act and thus void.

(Arising out of impugned final judgment and order dated 22-09-2021 in WC No. 19071/2020 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mr. Pankaj Seth, Adv. Mrs. Manjeet Chawla, AOR Mr. Yashvardhan S. Soam, Adv.

ORDER

The sole arguments raised by learned counsel for the petitioner is that the claim was not filed within a period of one month or extending condonable period of one month.

We do not find any merit in the said arguments in view of Section 28 of the Indian Contract Act, 1872 (for short, 'the Act') which reads as under:-

"28. Agreements in restraint of legal proceedings, void.— [Every agreement,—

(a) by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights; or

(b) which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights, is void to the extent.]"

In view of the aforesaid Section, the condition of lodging claim within a period of one month, extendable by another one month is contrary to Section 28 of the Act and thus void.

In view of the said fact, we do not find any ground to interfere with the order passed by the High Court.

The special leave petition is, accordingly, dismissed.

Pending application(s), if any, also stand disposed of.