

## Upholding the Discharge Voucher: Further Judicial Support for the Full and Final Settlement of Claims

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Following our report last month of the Supreme Court decision in *Genus Power*, we now report a further welcome judgment on the sanctity of discharge vouchers/settlement agreements. This is a 16 December 2014 National Commission decision in a case where the Insured claimed to have signed the discharge voucher and accepted the settlement amount under duress. The case is: *Garg Acrylics Ltd v United India* MANU/CF/0839/2014.

### Material Facts

The Insured took a Standard Fire and Special Peril Insurance Policy from UII in March 2009. A fire occurred in December 2009. The Insured claimed Rs.5 crores, but the surveyor assessed the loss at c. Rs.2.67 crores, and in December 2010 the Insured accepted a cheque of c. Rs.2.70 crores.

### National Commission's Reasoning & Judgment

The Insured filed a complaint before the State Commission which was rejected for lack of pecuniary jurisdiction and thereafter, the Insured filed a complaint before the National Commission which supported the Insurer, for the following reasons:

1. The discharge voucher was not dated but the Insured admitted that it received payment by way of the cheque dated 1 December 2010. It, therefore, meant that the amount was paid on 1 December 2010.
2. The cheque was encashed before filing the complaint before the National Commission and "this fact smacks of malafides of intention on the part of the complainant". The Commission further said:

"It appears that the complainant wants benefit of both the worlds. It is trying to be smart. If it was not satisfied with the above said settlement, it would have kept the cheque without encashing it. The duplicity on the part of the complainant is clearly discernible."

3. The Insured sent letters to the Insurer in 2010 (2 weeks after the date of the cheque) and again in 2011 for further payment but the Insurer reiterated that the claim had been settled fully and finally as per the discharge voucher. In this regard, the Commission observed that:

“There was no immediate reaction to the discharge voucher. There was no immediate protest, whisper, word or syllable for a period of seven days. The complainant [Insured] should have protested immediately by sending a telegram or sending the protest immediately.”

4. In relation to the Insured’s allegations against the surveyor, the Commission observed that:

“The full and final settlement discharge voucher clearly shows that it is in consonance with the Surveyor’s report, rather it is more than that. The Surveyor without any allegation of ill will or malice appears to be a sterling witness. This is settled Law that the report of the surveyor is to be given much more weightage than any other piece of evidence.”

5. The Commission rejected the Insured’s arguments that: (a) it had accepted the amount under duress because he had taken loan from the Bank and he was being forced by the Bank to return the money; (b) the execution of the discharge voucher as a pre-condition to release the amount itself amounts to economic duress and coercion and also to arm twisting tactics. The Commission held that:

“There is not a single business man on the earth, who does not have the economic pressure. No other particulars of fraud, undue influence or coercion saw the light of the day. There is no economic hardship.”

“the complainant signed the settlement discharge voucher with open eyes. The question of economic pressure may be hovering around at that stage as well. It could have refused to sign the settlement and waited for sometime to put up his claim before the Court of Law.”

For further information on this topic please contact Tuli & Co

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