Supreme Court of India
National Insurance Company Ltd. vs State Bank Of India And Ors. on 26 March, 1993
Equivalent citations: 1993 78 CompCas 269 SC, JT 1993 (2) SC 464, (1993) 2 MLJ 104 SC, 1993 (2) SCALE 279, (1993) 2 SCC 673
Bench: B J Reddy, N Venkatachala
ORDER

1. Heard the counsel for the parties. Leave granted.

2. This appeal is directed against the Judgment of a learned Single Judge of the Punjab and Haryana High Court allowing the Second Appeal preferred by the first respondent. The plaintiff-respondent, State Bank of India had financed the purchase of a truck by the first defendant. Defendant 2 and 3 were guarantOrs. On the first defendant failing to repay the loan as stipulated, the plaintiff-Bank instituted a suit for recovering the amount against defendants 1 to 3. Pending the suit the truck got burnt whereupon the plaintiff impleaded the appellant herein, National Insurance Company Limited, as the fourth defendant. The appellants' case was that the first defendant had deliberately and intentionally set fire to the truck and, therefore, the Insurance Company is not liable to pay the insurance amount On a consideration of the evidence placed before it, the Trial Court held that fourth defendant (appellant herein) has failed to establish that the truck was set fire deliberately by the first defendant. In view of the Insurance Policy issued by the fourth defendant, the suit was decreed in favour of the Bank making the Insurance Company also liable. Thereupon the Insurance Company (appellant herein) filed an appeal which was allowed by the First Appellate Court which found that the truck was set fire deliberately by the first defendant. The plaintiff-company then preferred a Second Appeal in the High Court against all the four defendants. The learned Judge found that the Appellate Court was in error in holding that the truck was deliberately set on fire with the first defendant. Accordingly it allowed the appeal holding that the Appellate Court was in error in exonerating the Insurance Company from the liability to the decretal amount

3. In our opinion the question at issue is purely factual in nature. Even if the finding of fact recorded by the first Appellate Court was erroneous, the High Court could not have interfered with the same. Even otherwise, we are of the opinion, on a consideration of the relevant evidence, that the finding of the Appellate Court cannot be characterised as either erroneous or arbitrary. The conduct of the driver soon after the truck allegedly caught fire is wholly inconsistent with the theory of accidental fire. Accordingly we are of the opinion that the learned Single Judge exceeded the bounds of Section 100 of the C.P.C. in interfering with the finding of fact recorded by the First Appellate Court. The Civil Appeal is accordingly allowed. The Judgment of the High Court is set aside and the Judgment of the First Appellate Court is restored. There shall be no order as to costs.