

**PRESIDENT'S SECRETARIAT (PUBLIC)**  
**AIWAN-E-SADR, ISLAMABAD**

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**Rep. No. 18/FIO/2022**  
**Dated of Decision: 27.01.2023**

M/s Adamjee Insurance Company Ltd. Vs M/s United International Industries

Sub: **REPRESENTATION FILED BY M/S ADAMJEE INSURANCE COMPANY LIMITED AGAINST THE FINDINGS OF THE FEDERAL INSURANCE OMBUDSMAN DATED 15.11.2022 IN COMPLAINT NO. 1351/2020**

Kindly refer to your representation addressed to the President in the background mentioned below: -

2. This representation has been filed by M/s Adamjee Insurance Co. Ltd. (the petitioner company) assailing the order dated 15.11.2022 of the Federal Insurance Ombudsman whereby it has been held as under:-

*“It seems that the 2<sup>nd</sup> Surveyor has failed to conduct survey scientifically keeping in view the fact, after almost three (03) years, it is difficult to collect evidences of water seepage from ceiling, broken windows. His impression that entire stock was destroyed by rain coming from ceiling and broken windows does not seem to be correct. Did Surveyor bother to collect evidence regarding quantity, in mm of rainfall on the day i.e. 28.07.2019? What was level of ground floor of warehouse? What was the level of roof? Any chance of water accumulation after rain especially in areas where ceiling was damaged?”*

*Damaged ceiling and broken windows may have contributed to some extent to the loss/damage due to rain water coming from damaged ceiling and broken window and completely ignoring that fact the stock could have been destroyed by the flooding of warehouse caused by heavy rainfall.*

*In view of the above discussion, it is established that violations of various sections/provisions of the Insurance Ordinance, 2000 have been committed by the respondent company who has failed to abide by Section 12(1)(a) and Section 12(5) in addition to other violations mentioned in the case details. Therefore, in pursuance of powers conferred under section 130 of Insurance Ordinance, the respondent company is hereby ordered to pay an amount of US\$.63,740.15. (US Dollar Sixty-three Thousand Seven Hundred Forty Only) as assessed by the 1<sup>st</sup> Surveyor as loss occurring to the complainant in this case, within thirty (30) days from the receipt of this order.”*

3. M/s United International Industries, Karachi (the complainant) had alleged that it had obtained two policies, i.e. Fire Policy and Atmospheric Disturbance Policy for a period of one year from 01.03.2019 to 28.02.2020 from the petitioner company for sum assured of US\$. 570,000/- with premium of US\$. 1938/-. According to the complainant, heavy monsoon rains in August, 2019 had badly damaged the building and stock of plastic / paper rolls stored at the insured premises. The loss was reported to the petitioner company which appointed a surveyor M/s Joseph Lobo Pvt. Ltd. which reported that the net loss amounted to US\$. 63,740.15 but it had occurred due to the fact that the rain water seeped through the roof of the warehouse and on account of this seepage, the stocks of the insured got damaged. This leakage / seepage and damage of the building was due to pre-existing and pre-insurance condition which did not fall within the purview of the insurance policy. The petitioner company accordingly repudiated the insurance claim filed by the complainant.

4. Feeling aggrieved, the complainant approached the learned Ombudsman who passed the impugned order, hence the instant representation.

5. The hearing of the case has been held on 18.01.2023. Ameer Hasan, Deputy Executive Director along with Shahbaz Ghumman on behalf of the petitioner company while Ismail Godil, Director on behalf of the complainant have attended the hearing.

6. The representative of the petitioner company has contended that the impugned order is not based on law and facts; that no element of maladministration can be attributed to the petitioner company as it had rightly repudiated the insurance claim which did not fall within the ambit of insurance policy; that the delay in appointment of surveyor is not on the part of the petitioner company as the complainant had reported the alleged loss on 15.09.2019 in respect of rain of 28.08.2019 and the surveyor was appointed on 23.09.2019 and there is no delay as such; that the repudiation of insurance claim is based in accordance with the terms and conditions of the policy but the learned Ombudsman has failed to appreciate this fact, thus the impugned order is not sustainable and deserves to be set aside.

7. Conversely, it is contended on behalf of the complainant that the repudiation of insurance claim by the petitioner company is against the terms and conditions of the policy; that the incident took place on 28.08.2019 and it was reported to the petitioner company on the same day but the surveyor was appointed after lapse of almost a month on 23.09.2019 who visited the warehouse on 24.09.2019 when no a single drop of water of rain could be found at the warehouse and thus the repudiation of insurance claim on flimsy grounds is unjustified constituting maladministration.

8. The respective contentions of the parties have been considered in the light of the material on record.

9. The perusal of the record shows that the complainant had got insured the warehouse by obtaining Fire and Atmospheric Disturbance Policy from the petitioner company for a period of one year from 01.03.2019 to 28.02.2020. The terms and conditions of the policy contain a clause of Atmospheric Disturbance stating that *"this policy is extended to cover the risk of fire, riot and strike damages, earthquake (fire and stock), explosion, aircraft damages, malicious damage and atmospheric disturbance."*

10. Admittedly, the warehouse has been damaged due to seepage and seepage too is a result of excessive rain falling under the Atmospheric Disturbance. The contention of the petitioner company that said damage does not fall within the ambit of the terms and conditions of the policy is not tenable. The surveyor during the survey has recorded the statement of one Muhammad Ayub who has stated that due to old structure of the warehouse, the seepage took place and ultimately caused damage to the stock stored therein. The said statement cannot be a base for surveyor report and repudiation of insurance claim as no opportunity of cross examination has been afforded to the complainant. The learned Ombudsman in the impugned order has rightly observed that *"it is important to highlight that the Fire Policy in question protects the insured against any loss or damage occurring due to atmospheric disturbances which covers the monsoon rains. However, while not denying the fact that loss was actually caused due to excessive rainfall as reported by the complainant, it was solely attributed to entrance of water in the warehouse from the Roof Seepage. Reliance for this purpose was made by the Surveyor on the statement of the factory employee, who cannot be considered as expert by any standard and the unprofessional approach of the surveyor is apparent in the matter."*

11. Moreover, the policy in question is a renewed policy which was issued after pre insurance inspection conducted by the petitioner company declaring the warehouse suitable for issuance of insurance policy. Thus, the petitioner company is estopped to take such a plea of repudiation of insurance claim on the basis of alleged seepage / leakage at warehouse on account of its old structure.

12. The petitioner company has failed to establish any illegality in the impugned order that has been passed after appreciating the relevant law, procedure and facts of the case.

13. Accordingly, the Hon'able President has been pleased to reject the instant representation upholding the impugned order.

Sd/-  
**(Muhammad Saleem)**  
**Director (Legal-I)**

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- 2) Mr. Ismail Godil, Director  
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***Copy to:-***

The Insurance Ombudsman, Insurance Ombudsman's Secretariat, PRCS Annexe Building,  
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