



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

(1) S. B. Civil Writ Petition No. 16925/2025

CNR: RJHC020943832025 | URN: CW / 38489U / 2025

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

-----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

-----Complainant/Respondent

Connected With

(2) S.B. Civil Writ Petition No. 19084/2025

CNR: RJHC021003092025 | URN: CW / 42798U / 2025

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

-----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

-----Complainant/Respondent

(3) S. B. Civil Writ Petition No. 20481/2025

CNR: RJHC021002992025 | URN: CW / 45438U / 2025

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

-----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

-----Complainant/Respondent

(4) S. B. Civil Writ Petition No. 241/2026

CNR: RJHC021147362025 | URN: CW / 496U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).



----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(5) S. B. Civil Writ Petition No. 242/2026

CNR: RJHC021147822025 | URN: CW / 497U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(6) S. B. Civil Writ Petition No. 246/2026

CNR: RJHC021148012025 | URN: CW / 505U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(7) S. B. Civil Writ Petition No. 251/2026

CNR: RJHC021146102025 | URN: CW / 515U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

**(8) S. B. Civil Writ Petition No. 348/2026**

CNR: RJHC020006662026 | URN: CW / 736U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(9) S. B. Civil Writ Petition No. 356/2026

CNR: RJHC020005932026 | URN: CW / 753U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(10) S. B. Civil Writ Petition No. 358/2026

CNR: RJHC020006642026 | URN: CW / 756U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(11) S. B. Civil Writ Petition No. 359/2026

CNR: RJHC020004552026 | URN: CW / 759U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner



Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(12) S. B. Civil Writ Petition No. 380/2026

CNR: RJHC021148062025 | URN: CW / 806U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(13) S. B. Civil Writ Petition No. 383/2026

CNR: RJHC020005452026 | URN: CW / 812U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(14) S. B. Civil Writ Petition No. 388/2026

CNR: RJHC020006382026 | URN: CW / 820U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

**(15) S. B. Civil Writ Petition No. 389/2026**

CNR: RJHC021147952025 | URN: CW / 822U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(16) S. B. Civil Writ Petition No. 391/2026

CNR: RJHC020004622026 | URN: CW / 824U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(17) S. B. Civil Writ Petition No. 459/2026

CNR: RJHC020006612026 | URN: CW / 976U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(18) S. B. Civil Writ Petition No. 463/2026

CNR: RJHC020006542026 | URN: CW / 984U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner



Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(19) S. B. Civil Writ Petition No. 470/2026

CNR: RJHC020012242026 | URN: CW / 994U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(20) S. B. Civil Writ Petition No. 471/2026

CNR: RJHC020005382026 | URN: CW / 997U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(21) S. B. Civil Writ Petition No. 473/2026

CNR: RJHC021146082025 | URN: CW / 1002U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent



(22) S.B. Civil Writ Petition No. 1725/2026

CNR: RJHC020085772026 | URN: CW / 3677U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(23) S. B. Civil Writ Petition No. 1726/2026

CNR: RJHC020086482026 | URN: CW / 3679U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

(24) S. B. Civil Writ Petition No. 1815/2026

CNR: RJHC020092212026 | URN: CW / 3887U / 2026

Oriental Insurance Company Limited, through Regional Manager,
having its Office at 9th- 10th Floor, NBCC Centre, Sahakar Marg,
Jaipur (Rajasthan).

----Petitioner

Versus

Indu Dhull, Proprietor, Uv Overseas, Plot No. 23, Sudershanpura
Industrial Area, Bais Godam, Jaipur-302006.

----Complainant/Respondent

For Petitioner	:	Mr. Sandeep Jain Advocate.
For Respondent	:	Mr. Virendra Prajapat Advocate.





HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

Date of conclusion of arguments	::	03.10.2026
Date on which judgment was reserved	::	03.10.2026
Whether the full judgment or only		
the operative part is pronounced	::	Full Judgment
Date of pronouncement	::	12.10.2026

1. Since all these twenty-four writ petitions arise out of twenty-four awards passed by the Insurance Ombudsman, Jaipur, (hereinafter to be referred as 'the Insurance Ombudsman') concerning the same insured, the same open cover marine cargo policy and substantially identical questions of fact and law, hence, they have been heard together and are being decided by this common judgment. Facts stated in S.B. Civil Writ Petition No.16925/2025 are being taken into consideration for the sake of convenience and ease of understanding, unless the context otherwise requires.

2. The petitioner-insurer has prayed for quashing of the awards passed by the Insurance Ombudsman whereby claims of respondent arising from non-delivery of twenty-four consignments of silver jewellery sent through Registered Post from Jaipur to New York, USA, have been allowed, subject to deductions, with interest.

3. In S.B. Civil Writ Petition No.16925/2025, the petitioner has challenged award dated 14.08.2025 passed in Complaint No. JPR-G-050-2526-0119. Facts, in brief, are that the petitioner is an insurance company incorporated under the Companies Act. Respondent, proprietor of M/s UV Overseas, had obtained Open Cover Marine Cargo Policy No.243300/21/2023/137, valid from 07.04.2022 to 06.04.2023, covering export consignments of silver jewellery from Jaipur to anywhere in the world on Cost, Insurance



and Freight (CIF) + 10% valuation basis, subject to 5% contractual excess. Individual Marine Cargo Certificates were issued in respect of declarations made under the open cover.

4. In S.B. Civil Writ Petition No. 16925/2025, Certificate No.243300/21/2023/137/0046 was issued on 27.05.2022 in respect of Invoice No.248/22-23 dated 18.05.2022, concerning a consignment sent through India Post Registered Post to New York, for a declared sum insured of ₹4,72,304/-.

5. The petitioner's case is that the claims were repudiated on account of non-submission of relevant documents and breach of the terms and conditions of the policy, including (i) delayed intimation, (ii) failure to preserve recovery rights, (iii) applicability of the relevant duration clause and (iv) other policy obligations. It is not in dispute that the consignments were sent through India Post and the individual certificates were issued after the dates of dispatch.

6. The petitioner has specifically pleaded in all the writ petitions that, according to the material subsequently correlated from the records of the consignments, the respective parcels had already reached the United States Import Office before the corresponding certificates of insurance were issued. For example in S.B. Civil Writ Petition No.16925/2025, the consignment was dispatched on 18.05.2022, whereas the certificate was issued on 27.05.2022. The petitioner asserted that the postal records disclosed that the parcel had reached the US Import Office on 21.05.2022. Thus, according to the petitioner, the certificate was obtained after the insured article had already reached the foreign destination/Import Office.



7. The petitioner contended that this significant fact was not within its knowledge when the claims were repudiated. According to it, India Post had informed the respondent about the date on which the parcel had reached the US Import Office, but despite repeated requests, the respondent did not disclose that date to the insurer. Consequently, the petitioner had no knowledge of the precise date on which the consignments had reached the US Import Office or the stage at which the alleged loss occurred. It is for this reason, according to the petitioner, that the repudiation letters did not specifically refer to the fact that the certificates had been issued after the consignments had already reached the US Import Office.

8. The respondent, thereafter, challenged the repudiation before the Insurance Ombudsman. In the complaints filed by her, the respondent herself disclosed the relevant dates relating to the movement of the consignments, including the date on which the parcels had reached the US Import Office. The complaints were filed on different dates. The petitioner submits that when the individual complaints were being considered, the significance of the dates relating to arrival of the parcels and issuance of the certificates did not immediately emerge because the claims were spread over different complaints and consignments. After the Insurance Ombudsman passed the impugned awards, the petitioner prepared a consolidated comparative sheet correlating the dates of dispatch, arrival at the US Import Office and issuance of the respective insurance certificates. It was then discovered that, in the cases in question, the certificates had been issued after the parcels had already reached the US Import Office.



9. The petitioner further contended that the respondent had failed to disclose a material circumstance at the time of obtaining the individual certificates and therefore, no insurable risk, in the manner asserted by the respondent, remained to be insured after the goods had already reached the US Import Office. It is further submitted that the respondent could not obtain the benefit of insurance by withholding a material fact concerning the position of the insured goods and subsequently relying upon the certificate issued by the insurer without disclosure of the true factual position. As per petitioner, since the Insurance Ombudsman has skipped the above significant aspect, hence, the perversity has crept in the impugned awards.

10. Respondent has opposed the writ petitions by way of filing reply and submitted that the petitioner is attempting to introduce a new ground before this Court. It is contended that the repudiation letters did not contain the plea regarding the date of arrival at the US Import Office and the Insurance Ombudsman was not called upon to adjudicate such a ground. It is further submitted that the open cover was a standing contract, the declarations could be made within the prescribed period and the certificates were merely issued pursuant to the subsisting open cover. The respondent, therefore, contends that the fact that the individual certificate was printed on 27.05.2022, after dispatch on 18.05.2022, does not by itself extinguish the open cover.

11. It is also submitted by the respondent that the Insurance Ombudsman has meticulously considered the policy, certificates, invoices, postal receipts, non-delivery documents and the survey report of the insurer's settling agent and arrived at a



reasoned conclusion. The respondent, while stating the limited scope of judicial review, has contended that this Court cannot re-appreciate the evidence or substitute its own view for that of the Insurance Ombudsman.

12. Thereafter, the Insurance Ombudsman, after considering the material produced by both sides, accepted the respondent's claim by awarding different amount in different complaints.

13. Shri Sandeep Jain, learned counsel for the petitioner vehemently argued that the impugned awards suffer from a material error, which goes to the root of the matter. As per learned counsel, the Insurance Ombudsman proceeded upon an erroneous factual premise that the risk was subsisting during the entire postal transit without examining whether the insurance certificates were obtained after the consignments had already reached the US Import Office. It is submitted that this aspect is not founded upon any new document manufactured by the insurer subsequent to award of the Insurance Ombudsman, but it clearly emerged from the material disclosed by the respondent herself in the complaints before the Insurance Ombudsman. The petitioner has merely correlated the dates of the individual consignments and certificates after the awards had been passed.

14. Learned counsel has further submitted that the question is not merely whether the certificate was printed after dispatch. The material question is whether, at the time the individual insurance certificate was obtained, the insured had already acquired knowledge of the movement and arrival of the insured subject-matter at the foreign Import Office and nevertheless



obtained insurance without disclosing the material circumstance. Such suppression materially affects the validity and enforceability of the claim and could not have been ignored by the Insurance Ombudsman. Reliance has been placed upon judgments of the Hon'ble Supreme Court in **United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal, AIR 2004 SC 4794, Oriental Insurance Co. Ltd. Vs. Sony Cheriyan, AIR 1999 SC 3252, Sonell Clocks and Gifts Ltd. Vs. New India Assurance Co. Ltd., AIR 2018 SC 4146, New India Assurance Co. Ltd. Vs. Hira Lal Ramesh Chand and Others, AIR 2008 SC 2620, R. Rama Rao Vs. P.Nirmala & Others, AIR 1997 SC 1923, Oriental Insurance Co. Ltd. Vs Samayanllur Primary Agricultural Coop. Bank, AIR 2000 SC 10, and Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil (2010) 8 SCC 329.**

15. *Per Contra*, learned counsel appearing for respondent has supported the impugned awards and submitted that the open cover itself was operative from 07.04.2022 to 06.04.2023 and that declarations could be made within the stipulated period. According to him, therefore, issuance of a certificate on 27.05.2022 in respect of a consignment dispatched on 18.05.2022 was permissible and did not amount to purchasing insurance after the risk had ceased. Learned counsel vociferously objected that no new fact or ground, which was not raised before the Insurance Ombudsman, can be allowed to be raised in the writ petition. It is further submitted that the question of concealment is a disputed question of fact which cannot be examined for the first time in writ proceedings. Learned counsel relied upon judgments rendered by



the Hon'ble Supreme Court in **Sadhana Lodh Vs. National Insurance Company Ltd & Anr., AIR 2003 SC 1561** and **M/s Garment Craft Vs. Prakash Chand Goel, 2022 (1) Civil Court Cases 662.**

16. I have considered the rival submissions and perused the material available on record.

17. At the outset, it is relevant to observe that this Court is mindful of limitation of jurisdiction under Article 227 of the Constitution of India. In **Shalini Shyam Shetty & Another (supra)**, while laying down guidelines for exercising jurisdiction under Article 227 of the Constitution of India, the Hon'ble Supreme Court clarified that Article 227 of the Constitution of India confers limited supervisory and not appellate jurisdiction, hence, interference is warranted sparingly to correct jurisdictional errors or grave injustice, not merely because another view is possible. Similar view has been taken by the Hon'ble Supreme Court in the cases of **Sadhana Lodh (supra)** and **M/s Garment Craft (supra).**

18. While keeping in mind the above principles, this court deems it appropriate to deal with the objection raised by learned counsel for the respondent that the petitioner cannot raise before this Court the issue regarding the date on which the consignments reached the US Import Office because the same was not specifically mentioned in the repudiation letters. This Court finds that the Hon'ble Supreme Court also in the cases of **Galada Power and Telecommunication Limited Vs. United India Insurance Company Limited & Another, (2016) 14 SCC 161** and **JSK Industries Private Limited Vs. Oriental Insurance**



Company Limited, 2022 SCC OnLine SC 1451, has reiterated the proposition that the Insurer cannot be permitted to raise a ground, different from the ground taken in repudiation letter.

19. However, this Court finds that the above objection, in the facts of the present case, cannot be accepted in the absolute form in which it has been advanced. It is true that ordinarily a writ Court does not permit a party to improve its case by introducing an entirely new factual foundation, particularly where such foundation requires investigation of disputed facts. Equally, an insurer ordinarily cannot supplement the reasons for repudiation by inventing entirely new grounds at the stage of judicial review.

20. However, the present case stands on an altogether different footing. The petitioner has not sought to introduce an unrelated factual foundation for the first time before this Court. The dates relied upon by the petitioner emerged from the material concerning the consignments themselves and significantly, the relevant information regarding the date of arrival at the US Import Office was disclosed by the respondent herself in her complaints before the Insurance Ombudsman. Hence, it cannot be said that a new fact has been introduced for the first time before this court by the petitioner.

21. The fact that the petitioner did not mention the precise circumstance in the repudiation letters cannot, in such circumstances, be treated as a bar to examination of a foundational issue which goes to the existence of liability itself. The petitioner has explained that the relevant date was not known to it when the claims were repudiated because the respondent had not supplied the information despite repeated demands. Under these



circumstances, the petitioner cannot reasonably be expected to incorporate in a repudiation letter a factual circumstance of which it had no knowledge and which was subsequently disclosed by the insured herself before the Insurance Ombudsman.

22. It is also relevant that the twenty-four claims filed by the respondent were not one composite claim. Separate consignments were involved, separate certificates were issued and complaints were filed on different dates. The significance of the dates could, therefore, emerge only upon comparison of the individual postal records with the corresponding insurance certificates. Once such material became available and was correlated, the petitioner was entitled to bring the foundational circumstance to the notice of the Court, particularly when it directly concerns the question whether there was an insured risk at all.

23. Furthermore, the distinction between a new ground and a new factual circumstance emerging from the existing record is important. A party cannot ordinarily create a new factual case in writ jurisdiction. But where the relevant factual foundation is borne out by the record produced by the opposite party itself and the legal consequence flowing from that undisputed or documentary fact is a question of law, then this Court cannot deny to entertain such plea, merely because the precise legal formulation was not adopted before the subordinate authority.

24. The question, therefore, is not whether the petitioner has used the expression "concealment" for the first time before this Court. The real question is whether the respondent obtained the individual insurance certificates after the consignments had



already reached the US Import Office and, if so, what legal consequence follows from that circumstance.

25. The distinction becomes particularly significant in a contract of insurance. As per Section 19 of the Marine Insurance Act, 1963 (hereinafter to be referred as 'the Act of 1963'), Insurance is *uberrimae fidei*, meaning thereby that Insurance is a contract founded upon utmost good faith. If the utmost good faith is not observed by either party, the contract may be avoided by the other party. The insured is required to disclose material facts which would influence the insurer in deciding whether to undertake the risk and, if so, on what terms. The principle of utmost good faith is not confined merely to the original proposal form in an abstract sense; but its application depends upon the nature of the insurance contract and the materiality of the fact which was withheld. A material fact is one which would influence the judgment of a prudent insurer in accepting the risk or determining the terms upon which the risk is to be undertaken.

26. On examination of scheme of the Act of 1963, this Court finds that Section 20 of the Act of 1963 is closely connected with Section 19 of the Act of 1963, embodying the principle that failure to make such disclosure entitles the insurer to avoid the contract, subject to the requirements of the provision. Section 20(2) of the Act of 1963 provides that a circumstance is material if it would influence the judgment of a prudent insurer in fixing the premium or determining whether to undertake the risk. Thus, materiality is to be assessed by applying the objective test of a prudent insurer and not merely by reference to whether the particular insurer actually considered the circumstance material. Further, Section



20(4) of the Act of 1963 expressly provides that whether an undisclosed circumstance is material is a question of fact in each case, while Section 20(5) of the Act of 1963 gives a wide meaning to the expression "circumstance" by including any communication made to, or information received by, the assured.

27. In the context of an open marine cover, while Section 20 of the Act of 1963 concerns the disclosure of material circumstances, however, it is necessary to examine the precise nature of the information allegedly withheld, whether it was known or ought to have been known to the assured, when it became known, its materiality in the light of the prudent-insurer test, the applicability of the statutory exceptions, and the relevant terms of the open cover.

28. In the present case, the issue is even more fundamental. If the consignment had already reached the US Import Office before the corresponding certificate was obtained, the question is not merely whether the respondent breached a collateral condition of the policy. The Court has to examine whether the risk in respect of which the certificate was issued was still an existing risk capable of being insured in the manner represented by the insured.

29. The petitioner has relied upon the date of dispatch, the date of arrival at the US Import Office and the date of issuance of the corresponding certificate. For illustration, in S.B. Civil Writ Petition No.16925/2025, the consignment was dispatched on 18.05.2022, reached the US Import Office on 21.05.2022 and the certificate was issued on 27.05.2022. Thus, there is a gap of six days between arrival at the US Import Office and issuance of the



certificate. Similar discrepancies, according to the petitioner, exist in the connected cases.

30. This Court finds that the Insurance Ombudsman principally proceeded on the basis that the dispatches were within the period of the open cover and that the declarations were made within the stipulated period. However, that approach did not address the anterior issue arising from the chronological discrepancy. Before determining the period of coverage and the applicability of the duration clause, it was necessary to examine whether the circumstances surrounding the obtaining of the individual certificates, including the alleged non-disclosure of information regarding the location of the consignments, required consideration.

31. Learned counsel for the petitioner has relied upon several judgments rendered by the Supreme Court. In the case of **United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal, (supra)**, it has been held by the Hon'ble Supreme Court that insurance policy terms must be construed strictly according to their plain meaning and the insured cannot claim beyond the risks expressly covered. Similar view has been taken in the case of **Oriental Insurance Co. Ltd. v. Samayanallur Primary Agricultural Cooperative Bank (supra)**. Whereas, in **Oriental Insurance Co. Ltd. vs. Sony Cheriyan (supra)**, the Hon'ble Supreme Court observed that the insurance contract governs the insurer's liability, which cannot extend beyond the coverage and conditions stipulated in the policy. In the case of **Sonell Clocks and Gifts Ltd. (supra)**, while dealing with insurance claim, it was laid down by the Hon'ble Supreme Court that policy conditions,



including the obligation to give prompt notice of loss, must be complied with, and delay may justify repudiation where the policy so provides and the breach is established. In **New India Assurance Co. Ltd. vs. Hira Lal Ramesh Chand & Others, (supra)**, it has been held that the insurer's liability depends upon the contractual coverage and proved facts. The insured must establish the insured loss in accordance with the policy. Whereas in **P. Rama Rao (supra)**, the Hon'ble Supreme Court has emphasised upon giving notice under Section 10 of the Carriers Act, 1865 to the insurer within the prescribed time. After respectful perusal of the aforesaid proposition laid down by the Hon'ble Supreme Court, there cannot be any different opinion than the aforesaid binding precedents laid by the Apex Court, yet in the context of facts of these writ petitions and the apparent question raised for consideration of this Court, in respectful opinion of this Court, applicability of the above judgments requires deference till the question of alleged suppression is finally adjudicated.

32. At this stage, this Court makes it clear that no conclusive finding has been drawn by this Court as to whether the respondent had, in fact, suppressed any material fact, nor does it hold that the certificates were invalid or that the insurer was consequently absolved of liability. Those questions necessarily depend upon factual determination by the competent authority. The limited finding is that the issue of alleged suppression or non-disclosure was material to the adjudication of the claims and ought to have been examined before the awards were made.

33. The respondent's objection that the repudiation letters did not expressly use the expression "suppression" or



"concealment" also cannot, by itself, conclude the issue. The petitioner had disputed liability on the basis of breach of policy terms and non-submission of relevant documents, while the chronological discrepancy emerged from material placed before the Insurance Ombudsman. Since the question relates directly to the circumstances in which the individual certificates were obtained, its consideration cannot be excluded merely on the ground of nomenclature.

34. The principle of limited judicial review as raised by the respondent also does not preclude interference in such circumstances. Where a material circumstance appearing from the record has not been considered and such omission may affect the determination of liability, the appropriate course is to remit the matter for fresh consideration rather than to undertake the factual adjudication itself. The present case is consequently one in which the Insurance Ombudsman should reconsider the claims after examining the issue of alleged suppression/non-disclosure in its proper factual and contractual context.

35. As regards the other issues raised by the petitioner, the leaned Insurance Ombudsman may reconsider such issues, insofar as they remain relevant, while deciding the claims afresh, which can appropriately be considered after the foundational issue concerning the circumstances in which the individual certificates were obtained has been examined.

36. For the reasons mentioned hereinabove, this Court is of the considered view that the Insurance Ombudsman proceeded upon a consideration of the incomplete material facts and failed to examine a circumstance which goes to the very root of the insured



risk. Such omission constitutes a material error warranting interference in exercise of writ jurisdiction.

37. In these circumstances, the awards cannot be permitted to stand in their present form. The matters are required to be remitted to the Insurance Ombudsman for fresh consideration, after affording the parties appropriate opportunity to address, in particular, the dates of arrival of the respective consignments at the US Import Office, the dates of issuance of the corresponding certificates, the information available to the respondent at the relevant time, the disclosures made to the insurer, and the legal consequence, if any, flowing therefrom. All questions on merits, including the ultimate liability of the petitioner, are left open for determination by the Insurance Ombudsman in accordance with law.

38. The Insurance Ombudsman shall also consider the contractual effect of the open cover and individual certificates, including whether the declaration of the consignment after dispatch and after its arrival at the US Import Office was permissible under the policy and whether the respondent's conduct amounted to suppression or non-disclosure of a material fact affecting the assumption of risk. The petitioner shall be permitted to place on record the consolidated comparative statement and the underlying documentary material on which it relies. The respondent shall have full opportunity to rebut the same.

39. The respondent has also raised the objection that the insurer has already deposited the entire awarded amount before the Registrar General of this Court pursuant to the interim order. The amount so deposited shall remain in the custody of the



Registrar General and shall not be disbursed to either party until the Insurance Ombudsman passes a fresh order pursuant to the remand made herein. The question of adjustment or release of the amount shall be governed by the fresh decision of the Insurance Ombudsman and any further order that may be passed in accordance with law.

40. Since the complaints are required to be reconsidered on a limited but material issue, the Insurance Ombudsman shall endeavour to decide the complaints expeditiously, preferably within a period of four months from the date certified copy of this judgment is produced before it. Both parties shall be permitted to place the relevant documentary material on record.

41. Accordingly, all the above writ petitions are allowed. The respective awards passed by the Insurance Ombudsman, Jaipur, which have been challenged in the above petitions, are quashed and set aside.

42. The complaints filed by the respondent before the Insurance Ombudsman are restored to their original numbers and remitted to the Insurance Ombudsman, Jaipur, for fresh adjudication in accordance with law.

43. The Insurance Ombudsman shall afford adequate opportunity of hearing to both sides and shall pass a fresh reasoned order in each complaint, uninfluenced by the conclusions recorded in the impugned awards and by this Court in the present writ petitions.

44. The parties shall appear before the Insurance Ombudsman on 02.11.2026, or on such date as may be fixed by



the Insurance Ombudsman after production of certified copy of this judgment.

45. Pending applications, if any, stand disposed of.
46. Office is directed to place a copy of this judgment on record of each connected writ petition.

(ANAND SHARMA),J

MANOJ NARWANI/43/

