
A CASE NOTE ON SAHAKARMAHARSHI BHAUSAHEB THORAT SAHAKARI SAKHAR KARKHANA LTD. V. THYSSEN KRUPP INDUSTRIES INDIA PVT. LTD.

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Citation: *Sahakarmaharshi Bhausaheb Thorat Sahakari Sakhar Karkhana Ltd. v. Thyssen Krupp Industries India Pvt. Ltd.*, Civil Appeal No. 3194 of 2014, 2025 INSC 219, decided on 14 February 2025 (Supreme Court of India).

ABSTRACT

This article examines the Supreme Court's decision in *Sahakarmaharshi Bhausaheb Thorat Sahakari Sakhar Karkhana Ltd. v. Thyssen Krupp Industries India Pvt. Ltd.*, 2025 INSC 219, about damages for machinery that failed to perform under a commercial contract. The appellant wanted ₹68.15 lakh on top of the liquidated damages already granted for poor yield. The Court rejected this claim, pointing out that when a contract spells out remedies like liquidated damages in Clause 15 and rectification or replacement in Clause 21 the party must seek relief as the contract directs. Section 74 of the Indian Contract Act, 1872 lets a party claim reasonable compensation up to the amount agreed, but it doesn't let them get more just by changing the label to "actual damages." The judgment makes it clear: claimants have to plead and prove they meet the requirements of the exact contractual remedy they choose, and courts look at what the claim really is, not what it's called.

Keywords: Breach of Contract, Liquidated damages, Section 74 Indian Contract Act, Commercial contract, Damages and Compensation.

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I. INTRODUCTION

Damages are usually the standard remedy when someone breaches a contract. Section 73 of the Indian Contract Act, 1872 states you are entitled to compensation for losses which directly arise from the breach however, not for losses that are too remote or indirect. Following that, Section 74 appears¹. If both parties set out a specific sum to be paid in case of a breach, or include a penalty, this section kicks in. But it only allows “reasonable compensation,” with a cap at whatever amount was named or penalty fixed in the contract.

Commercial contracts often come loaded with different clauses like liquidated damages, performance guarantees, maintenance warranties, replacement terms, and more. These aren’t all cut from the same cloth. A liquidated-damages clause usually makes it clear how much needs to be paid for a certain kind of breach, while a warranty or replacement term might require defective products to be fixed or swapped so that they actually match what the contract promised. Where things get messy is when a party asks for both: they want the contract’s stipulated damages, but also reach for a bigger claim, maybe covering the entire alleged failure of the project.

That’s exactly what happened in *Sahakarmaharshi Bhausaheb Thorat Sahakari Sakhar Karkhana Ltd. v. Thyssen Krupp Industries India Pvt. Ltd.*². Here, the buyer tried to claim ₹68.15 lakh for machinery that didn’t work, on top of liquidated damages for delays and poor output. The Supreme Court threw out the appeal. Their reasoning? The buyer didn’t seek replacement under the clause that spelled out that kind of remedy, nor did they pin their claim to it. The decision matters not because it draws a hard line that damages can never exceed what the contract says, but because it drives home this point: when you go to court, your claim has to match the actual contractual remedy you use and frame. What matters isn’t just what the contract allows in theory but the exact path you choose to follow under the contract’s terms.

¹ Indian Contract Act 1872, s 74.

² *Sahakarmaharshi Bhausaheb Thorat Sahakari Sakhar Karkhana Ltd v Thyssen Krupp Industries India Pvt Ltd*, Civil Appeal No 3194 of 2014, 2025 INSC 219 (SC), judgment dated 14 February 2025.

II. FACTS AND CONTRACTUAL SCHEME

On 17 November 1992, Sahakarmaharshi Bhausahab Thorat Sahakari Sakhar Karkhana Ltd. entered into an agreement with Thyssen Krupp Industries India Pvt. Ltd. Under the agreement, the respondent was to design, procure, manufacture, and supply machinery and equipment for a continuous fermentation process based on the Encillium process developed by the National Chemical Laboratory, Pune. The contract price was ₹93.20 lakh. The agreement also contained an arbitration clause.

The central commercial objective was enhanced alcohol yield. Clause 8 required the machinery and equipment to be new and prescribed performance guarantees. In particular, the continuous fermentation plant had to achieve a minimum fermentation efficiency of 90%, yielding 280 litres of alcohol per tonne of molasses after one month from commencement of operations.

The machinery was to be supplied within five and a half months from the effective date of the agreement, that is, by 15 May 1993. According to the appellant, delivery was delayed by approximately 24 weeks. Four initial trial runs were conducted, but the maximum yield achieved was only 237.68 litres of alcohol per metric tonne of molasses, considerably below the guaranteed 280 litres. On 19 October 1994, the appellant issued a legal notice claiming ₹237.83 lakh as damages and subsequently invoked arbitration.

A Memorandum of Understanding dated 24 July 1995 was then executed without prejudice to the rights and contentions of the parties. It contemplated necessary modifications at the respondent's cost, followed by a further 15-day trial. The MOU increased liquidated damages for failure to achieve guaranteed performance to 20% of the contract value, or ₹18.64 lakh. However, in the fifth trial run conducted in August 1995, the yield was allegedly only 224.54 litres per metric tonne.

The appellant's original statement of claim totalled ₹233.75 lakh and included the following principal heads:

Claim	Amount
Damages for approximately 24 weeks' delay	₹4.66 lakh
Liquidated damages for performance failure	₹18.64 lakh

Failure to meet steam and power guarantees	₹9.30 lakh
Loss due to short production	₹48.45 lakh
Expenditure on plant, civil work and supervision	₹107.54 lakh
Interest on ₹107.54 lakh	₹45.16 lakh

The later dispute before the Supreme Court was limited to ₹68.15 lakh awarded by the second arbitral tribunal for loss arising from non-performing machinery and equipment.

III. PROCEDURAL HISTORY

This litigation took a long, winding path through several legal stages.

The story starts with the first arbitral award on June 20, 1999. That award gave ₹2.09 lakh for delay damages, ₹107.54 lakh for the refund of the price and incidental expenses on the plant, ₹28.74 lakh as past interest, ₹21.42 lakh to cover actual loss from lower alcohol yield, and ₹1.50 lakh as costs.

Both sides weren't satisfied, so they filed objections under Section 30 of the Arbitration Act³, 1940. The Civil Judge ended up setting aside the award, sending the case back for a fresh round of adjudication on May 6, 2000. Then the High Court stepped in on October 20, 2000, deciding that the ₹107.54 lakh claim was beyond what the arbitral tribunal could decide but upholding some of the other claims.

The Supreme Court weighed in next, restoring the Civil Court's remand order on May 7, 2002. The Court ruled that not only the ₹107.54 lakh claim but also its associated interest fell within the tribunal's power to hear. Importantly, though, the Supreme Court didn't actually award the claim; it just said the tribunal could rule on it.

After the remand, the arbitral tribunal issued a second award on November 24, 2002. This time, it gave:

- ₹2.09 lakh as liquidated damages for delay,

³ Arbitration Act 1940, s 30.

- ₹18.64 lakh as damages for deficient alcohol yield during five performance tests,
- ₹68.15 lakh to cover losses from non-performing machinery and equipment,
- And ₹10.63 lakh as past interest on the ₹68.15 lakh sum.

The Civil Court upheld most of this second award on November 6, 2004, but struck out the ₹10.63 lakh interest, reasoning that interest can't apply to unquantified damages.

Fast forward to February 6, 2012. The High Court stepped in again, this time setting aside the ₹68.15 lakh award, saying the calculation behind it was speculative and imaginary. The Court did record that the respondent agreed liability for ₹2.09 lakh and ₹18.64 lakh. So when the appellant appealed to the Supreme Court, the only live issue was whether the ₹68.15 lakh award should be restored.

IV. ISSUES BEFORE THE COURT

The principal issues were:

1. Whether the appellant was entitled to ₹68.15 lakh as damages for non-performing machinery and equipment.
2. Whether Section 74 of the Indian Contract Act restricted the appellant's claim to the damages expressly provided for under the agreement.
3. Whether the appellant could recover the expenditure incurred on the plant despite not invoking the rectification or replacement remedy under Clause 21.

A subsidiary issue was whether Section 59 of the Sale of Goods Act, 1930 could independently sustain the appellant's claim as damages for breach of warranty⁴.

V. CONTENTIONS OF THE PARTIES

The appellant argued that the ₹68.15 lakh claim was distinct from liquidated damages. It contended that the plant failed to provide the guaranteed performance and was effectively incapable of commercial use. The appellant argued that the liquidated damages claim and the

⁴ Sale of Goods Act 1930, s 59.

claim for breach of warranty or non-performing machinery stood on separate grounds. It also pointed to the limited role courts play in interfering with arbitral awards under the Arbitration Act, 1940, citing *Madnani Construction Corporation (P) Ltd. v. Union of India*, (2010) 1 SCC 549⁵. At its core, the appellant's stance was that the contract didn't explicitly address what would happen if the plant completely failed. On that basis, it said actual damages should still be available under general contract law, and by extension, under the breach-of-warranty rules set out in Section 59 of the Sale of Goods Act⁶.

Meanwhile, the respondent took a different view, arguing that Clause 15 already laid out a full liquidated damages framework covering delays, shortfalls in alcohol output, and excessive steam and power consumption. They submitted that, under Section 74, compensation could not travel beyond the agreed framework.

The respondent placed particular reliance on Clause 21. They said if the machinery was faulty, under-capacity, or didn't meet terms, the appellant was supposed to give notice and demand repair or replacement. If the respondent didn't fix or replace in a reasonable time, the appellant could step in, replace it themselves, and recover the cost from the respondent. Since the appellant hadn't pursued replacement or done it themselves, the respondent said the appellant couldn't just keep the plant and still claim the full expenditure as a loss.

Finally, the respondent argued that the ₹107.54 lakh claim was not truly an independent damages claim. It was, in substance, a demand for return of the purchase price and associated expenditure.

VI. JUDGEMENT AND REASONING

The Supreme Court dismissed the appeal and upheld the High Court's deletion of the ₹68.15 lakh award. Justice Abhay S. Oka and Justice Ujjal Bhuyan, closely examined the three contractual arrangements: the original agreement, the supplementary agreement, and the MOU.

Clause 8: Performance Guarantee

The Court began with Clause 8 because it identified the substantive performance obligation. The respondent had guaranteed that the plant would attain the required capacity and efficiency,

⁵ *Madnani Construction Corporation (P) Ltd v Union of India*, (2010) 1 SCC 549.

⁶ Sale of Goods Act 1930, s 59.

including the minimum yield of 280 litres of alcohol per tonne of molasses. This clause established the benchmark against which the machinery's performance was measured.

Clause 15: Liquidated Damages

Clause 15 provided distinct liquidated-damages consequences for several forms of non-performance:

- delay in supply, at 0.25% of the contract price per completed week, capped at 5%;
- lower alcohol production;
- excess steam consumption, capped at 3%; and
- excess power consumption, capped at 2%.

The agreement further capped penalties or liquidated damages for non-performance of the fermentation section and guaranteed steam and power performance at 10% of the contract price. The MOU subsequently enhanced the liquidated-damages consequence for failure to achieve guaranteed performance to ₹18.64 lakh.

The Court observed that the appellant had already recovered the contractual liquidated damages: ₹2.09 lakh for delay and ₹18.64 lakh for deficient yield.

Clause 21: Rectification and Replacement

Clause 21 made things clear. It put a duty on the seller to repair or replace any equipment that turned out defective or didn't work right during the warranty period. If the seller didn't address the issue in a reasonable time, the purchaser could replace the faulty equipment and claim the actual replacement cost from the seller. This recovery could happen through set-offs against remaining payments or by issuing debit notes.

Most importantly, Clause 21.4 expressly stated that liability for rectification or replacement would extend to the actual cost of rectifying or replacing defective items and would not be limited to the amount of the performance guarantee.

Thus, the contract itself contemplated a scenario in which defective machinery might require

more than a liquidated-damages payment. But it attached that broader recovery to a particular remedial path: notice, failure of the seller to rectify or replace, replacement by the purchaser, and recovery of the actual replacement cost.

Characterisation of the Claim

The Court found that the appellant hadn't framed its claim under Clause 21. It never alleged that it asked the respondent to replace the plant, that the respondent failed to act within a reasonable time, or that the appellant itself replaced the equipment and incurred those costs. The appellant instead retained the plant and claimed that its entire investment had become waste.

Paragraph 16 of the statement of claim was central. It stated that the appellant had spent ₹107.54 lakh on the plant; that the plant would not provide the required results; that the agreement lacked a specific clause concerning total failure; and that the seller was therefore liable for "total investment" and interest.

The Court held that this was "virtually" a refund claim. It was neither a Clause 21 replacement claim nor a breach-of-warranty claim as pleaded. Therefore, the tribunal's award of ₹68.15 lakh could not be sustained merely by labelling it damages for non-performing machinery.

Application of Section 74

The Court then applied Section 74. It held that the appellant had received liquidated damages as provided under the agreement for the respondent's breaches. Since the claim actually made was for refund of expenditure on acquisition of the plant, and since the appellant had not invoked Clause 21, the damages claim remained confined to what was expressly provided under the agreement.

The Court therefore affirmed the High Court's decision and dismissed the appeal.

VII. RATIO DECIDENTI

The ratio of the case may be stated narrowly:

1. Where a commercial contract expressly allocates remedies for specified breaches, a claimant must seek relief consistently with that contractual structure.

2. Section 74 permits reasonable compensation up to the stipulated amount where a breach is governed by a stipulated-damages provision; it does not permit a claimant to obtain a larger recovery for the same contractual non-performance merely by redescribing the claim as “actual damages.”
3. Where a contract separately provides a rectification or replacement remedy that allows recovery of actual replacement cost, a party seeking that broader recovery must invoke and plead that remedy’s conditions.
4. A claim described in pleadings as recovery of the purchaser’s expenditure or investment may be characterised as a refund claim rather than an independent claim for damages or breach of warranty.

The decision should not be read as holding that Section 74 always excludes damages beyond a stipulated sum. Clause 21.4 itself recognised actual recovery beyond the performance guarantee for rectification or replacement. The decisive point was that the appellant did not use that contractual mechanism.

VIII. LEGAL ANALYSIS

Section 73 and Section 74

Section 73 embodies the compensatory principle: the injured party should be placed, so far as money can do so, in the position it would have occupied had the contract been performed. But this only covers losses that happen naturally from the breach. Anything that’s too remote or indirect is excluded.

Section 74 shifts the traditional common law principles around penalties and liquidated damages. Just because a contract names a sum doesn’t mean the injured party is entitled to it by default. The court can award compensation up to that amount, but only if it’s reasonable.

In *Fateh Chand v. Balkishan Das*, AIR 1963 SC 1405⁷, the Supreme Court held that Section 74 dispenses with proof of actual loss in appropriate cases but does not permit enforcement of a penalty as such. Courts must award reasonable compensation and cannot mechanically

⁷ *Fateh Chand v Balkishan Das*, AIR 1963 SC 1405.

enforce the contractual amount.

In *Maula Bux v. Union of India*, (1969) 2 SCC 554⁸, the Court explained that where loss is capable of proof, evidence of loss remains important. A stipulated sum does not become recoverable merely because it appears in a contract.

In *ONGC Ltd. v. Saw Pipes Ltd.*, (2003) 5 SCC 705⁹, the Court gave more weight to pre-estimates of loss especially when it's hard or impossible to prove the real amount. Yet even *Saw Pipes* does not make a liquidated-damages clause an automatic windfall.

Finally in *Kailash Nath Associates v. DDA*, (2015) 4 SCC 136¹⁰, any compensation under Section 74 has to be reasonable. The named amount in the contract is just a ceiling not an automatic payout and actual loss or injury is still the main focus, except when proving it is genuinely not possible. Section 74 puts a statutory cap on reasonable compensation but refuses to grant windfalls.

In the Thorat case, the court didn't go deep into reconciling all these rulings. Instead, it dealt with the contract and the specific facts. The appellant had already been paid the agreed amount for a deficient yield. Any extra claim lacked support because there wasn't a replacement remedy allowing recovery of additional actual costs.

Section 59 of the Sale of Goods Act

Section 59 of the Sale of Goods Act, 1930¹¹ permits a buyer, where there is a breach of warranty, to set up the breach in diminution or extinction of the price, or to sue the seller for damages. In principle, it recognises that a buyer may have a damages remedy even after accepting goods.

However, Section 59 did not assist the appellant on the facts of this case. The Supreme Court did not reject Section 59 as irrelevant to all machinery contracts. Rather, it found that the claim before the tribunal was not framed as a breach-of-warranty claim. It was a demand for recovery of the purchaser's total investment because the plant allegedly had become useless.

⁸ *Maula Bux v Union of India*, (1969) 2 SCC 554.

⁹ *ONGC Ltd v Saw Pipes Ltd*, (2003) 5 SCC 705.

¹⁰ *Kailash Nath Associates v Delhi Development Authority*, (2015) 4 SCC 136.

¹¹ Sale of Goods Act 1930, s 59.

This distinction matters. Had the appellant pleaded and proved defective equipment, issued the contractual notice, required replacement, replaced the machinery after the seller's default, and claimed the actual replacement cost under Clause 21, the contractual language particularly Clause 21.4 would have supported a more substantial recovery. The case therefore concerns a failure to use the applicable contractual remedy, not the extinction of all statutory warranty rights.

Arbitration and Section 30

Under Section 30 of the Arbitration Act, 1940¹², courts had limited grounds to set aside an arbitral award. The appellant relied on this restricted standard and on *Madnani Construction*¹³, which cautions against reappreciation of evidence or ordinary appellate review of arbitral decisions.

Nevertheless, the Supreme Court upheld the High Court because the objection was not merely factual. The ₹68.15 lakh award was inconsistent with the claimant's own pleaded basis and the contract's remedial architecture. A court exercising jurisdiction under Section 30 could intervene where an award granted relief contrary to the contractual terms governing the dispute.

IX. CRITICAL EVALUATION

The true force of this judgment is how it insists on getting the legal categories right. The appellant couldn't escape the contractual scheme: Clause 21.4 allowed for higher recovery than the performance guarantee, but only if you replaced the defective equipment and followed the notice process. The appellant wanted all damages and to continue owning the plant something the contract never allowed unless they pursued the replacement remedy.

The Court's reading of the claim as a disguised refund is convincing. The tribunal's reduction of ₹107.54 lakh to ₹68.15 lakh didn't change the nature of the claim but was still seeking a refund, not damages for costs actually incurred.

At the same time, the Court's language about damages being "expressly provided" in the agreement shouldn't be over-read. The rule is not absolute. Whether parties can claim more depends on what the contract actually says and how the claim is formulated. While liquidated

¹² Arbitration Act 1940, s 30.

¹³ *Madnani Construction Corporation (P) Ltd v Union of India*, (2010) 1 SCC 549.

damages might block further claims for the same breach, separate claims for other loss only if the contract and pleadings support them could still survive.

X. SIGNIFICANCE

The judgment boils down to three takeaways.

First, when drafting commercial contracts, spell out whether liquidated damages constitute the sole remedy, can supplement other remedies, or leave other rights unaffected. Do not overlook the details and address what happens if equipment completely fails, who covers replacement costs, what if there are production losses, and rights to termination or refunds.

Second, claimants must identify the exact clause supporting each head of relief. A party seeking actual replacement cost should plead notice, seller default, replacement, and the expenditure incurred. A broad assertion that the investment has become useless is vulnerable to being treated as an impermissible refund claim.

Third, courts and arbitrators have to separate claims for liquidated damages from claims based on a different contractual promise. You can't sort these out just by what you call them; you have to look at the pleadings, the contract's language, and what remedy is actually being asked for.

XI. CONCLUSION

In *Sahakarmaharshi Bhausaheb Thorat*, the Supreme Court did not deny that the machinery failed to meet the guaranteed performance. Nor did it hold that a purchaser can never recover actual loss beyond liquidated damages. The appellant failed because it had already received the contractual damages for performance deficiency, retained the machinery, did not invoke Clause 21's rectification or replacement mechanism, and pleaded its larger claim as recovery of wasted expenditure.

This decision makes one thing clear: Section 74 works inside the limits the parties set in their contract, it doesn't override them. If the contract already spells out how to recover replacement costs, you can't just repackage your claim and call it "actual damages" to get a refund instead. The judgment stands as a strong example for anyone drafting contracts, planning how to frame a claim, seeking relief in arbitration, or sorting out how liquidated damages and warranty remedies connect.

REFERENCES

Statutory Provisions

1. Indian Contract Act, 1872, Sec. 73 - Sec74.
2. Sale of Goods Act, 1930, Sec. 59.
3. Arbitration Act, 1940, Sec. 30.

Cases

1. *Sahakarmaharshi Bhausaheb Thorat Sahakari Sakhar Karkhana Ltd. v. Thyssen Krupp Industries India Pvt. Ltd.*, Civil Appeal No. 3194 of 2014, 2025 INSC 219 (SC). 21.
2. *Fateh Chand v. Balkishan Das*, AIR 1963 SC 1405.
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4. *ONGC Ltd. v. Saw Pipes Ltd.*, (2003) 5 SCC 705.
5. *Kailash Nath Associates v. Delhi Development Authority*, (2015) 4 SCC 136.
6. *Madnani Construction Corporation (P) Ltd. v. Union of India*, (2010) 1 SCC 549.