(2004) 03 NCDRC CK 0096

In the National Consumer Disputes Redressal Commission

A. CHANDRAN APPELLANT

Vs

National Insurance Company Ltd. RESPONDENT

Date of Decision : 17-03-2004

Acts Referred:

Citation : 2005 1 CPJ 298

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal dismissed

Judgement

1. THE 2nd complainant is the appellant. THE case of the complainant is that the complainant constructed a house in 1992 at the cost of Rs. 2,00,000/-. He had insured the house with the opposite party for a period of 3 years for a sum of Rs. 1,50,000/-. THEre was heavy rain accompanied by storm on 16.12.1996 resulting in a landslide. On account of the same, the building developed cracks and was damaged. THE extent of damage is in a sum of Rs. 1,49,130/-. THE complainant made a claim to the opposite parties. THE opposite parties did not accept the claim. THErefore, on the ground of deficiency in service, the present complaint has been laid.

2. THE opposite parties contended that there is no deficiency in service. THE claim is barred by time. THE complainant made a similar claims relating to the same building alleging identical damages to New India Assurance Company. It was dismissed. Thus, the present claim is also not bona fide. Incorrect statements have been furnished in the policy. THE allegation that the foundation went down by one foot and cracks developed in the building is not true. THE Surveyors have given reports that damages are not due to rainfall but due to defective construction. THEre is no deficiency in service. The lower Forum by its order dated 14.6.1999 dismissed the complaint. Hence the present appeal.

The complainant had insured the very same building with the New India Assurance Company for a period of one year from 10.7.1992 to 9.7.1993. He preferred a claim to the said company on identical grounds. A Surveyor appointed by the said company surveyed and filed a report on 13.12.1992.

Based upon the report, the complainant received a sum of Rs. 8,200/-. Then the complainant insured the building with the United India Insurance Company for a period from 9.7.1993 to 8.7.1994 and preferred a claim to United India Insurance Company. The same Surveyor surveyed and given a report stating that the damage was due to defective construction and there cannot be any claim with the Insurance Company. The United India Insurance Company rejected the claim of the complainant and the complainant thereafter filed O.P. No. 306/94 and it was rejected by the Consumer Forum on 24.3.1995. After that, the complainant insured the building with the National Insurance Company namely the opposite parties herein and has now preferred a claim with regard to the same building. Thus, the conduct of the complainant would show that the complainant is bent upon making fraudulent grounds. In respect of the same house, thrice, the claim has been preferred. On earlier occasion, the claim preferred was rejected. Now, on identical facts, the present claim is made. The decision in O.P. No. 306/94 rejecting the earlier complaint is based upon the fact that the damage to the building was caused by defective construction and not due to act of nature. It is not the complainant''s case that subsequently any improvement was made by him to the building by way of reinforcement. Now, he would say that there was a heavy rain with storm leading to a landslide on account of which the foundation sunk by a foot with the result that crack is developed in the building. The photographs produced by the complainant does not support his case. It is not established that there was any such storm and landslide as alleged by him on that day. The complainant has also not sought the appointment of a Commissioner or Engineer to see whether the foundation has been intact or has sunk. Therefore, it is obvious that the complaint is again filed more to try his luck again. Thus, this is but a fraudulent attempt made by the complainant to fleece public money by preferring false claims. In such circumstances, we have no hesitation in dismissing the complaint and confirming the order of the lower Forum.

3. IN the result, this appeal is dismissed with cost confirming the order of the lower Forum. Cost: Rs. 250/-. Time for compliance: Two months. Appeal dismissed.