(1993) 05 NCDRC CK 0004

In the National Consumer Disputes Redressal Commission

ASA SINGH COTTON FACTORY — APPELLANT

Vs

UNITED INDIA INSURANCE CO. — RESPONDENT

Date of Decision : 04-05-1993

Acts Referred:

Citation : 1993 0 CPC 688 : 1993 0 NCDRC 116 : 1993 2 CPJ 203 : 1993 2 CPR 404

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , B.S.YADAV J.

Advocate : Vishnu Mehra

Judgement

1. THE appellant, M/s. Asa Singh Cotton Factory (for short the Firm) is carrying on the business of cotton ginning and also its bye-products. For the safety of the stock of goods lying in the premises of the mill, the Firm took policies from the respondent, United India Insurance Co., on 5th June, 1990 and 7th June, 1990 covering the risk of loss due to fire, etc. On 8th June, 1990 at about 9.30 p.m. a fire occurred in the mill of the Firm due to short circuit in the over head carriers of 11KV electrtic cables. Stock of cotton worth Rs. 10,26,050/- was destroyed. The complainant reported the matter to the Insurance ComÂ¬pany which appointed M/s. Gambar Lal Puri & Sons, Surveyors and Assessors for conducting a survey. The Surveyors submitted their report on 12th July, 1990 fixing liability of the Insurance Company at Rs. 9,69,719/-. The Insurance Company paid the amount of Rs. 9,56,985/-on 7th June, 1991. The Firm accepted the amount and issued receipt for full and final settlement of their claim. Thereafter the Firm filed the complaint under the Consumer Protection Act, 1986 (for short the Act) before the State Consumer Disputes Redressal Commission, Punjab at Chandigarh, which was regisÂ¬tered as Original Complaint No. 19 of 1991. The grievance of the complainant-appellant was that in spite of the receipt of the report of the Surveyor on 12th July, 1990, the payment was released to them by the InsurÂ¬ance Company after a lapse of about one year from the date of the incident of fire. They therefore, alleged deficiency on the part of the Insurance Company in the rendering of services and claimed interest on the amount paid at the rate of 18 per cent per annum from July 12, 1990.

2. THE Insurance Company contested the comÂ¬plaint on the plea that the claim of the claimant had been paid and satisfied under the terms and conditions of the policy and the complainant in token of the acceptance of the same had willingly and voluntarily given discharge receipt in full and final settlement of the claim and therefore the complaint was liable to be dismissed on that ground alone. It was also alleged that as the fire was said to have taken place on 8th June, 1990, i.e. soon after the policies were taken, the policies required close scrutiny to rule out the possibility of any ante-dating of the policies. Moreover, voluminous materials and intricaÂ¬cies warranted a close scrutiny by the Insurance ComÂ¬pany. Clarification had also to be taken from the Head Office and, therefore, a lapse of reasonable time could not by any stretch of imagination be termed as deficiency in service, and hence the claimant Firm was not entitled to any relief. The State Commission, relying upon the order of this Commission passed in Jiyajeerao Cotton Mills v. New India Assurance Co. Ltd. (Original Petition No. 52 of 1991 decided on November 28, 1991), held that after having received the amount without any protest, in full and final settlement of the claim, the claimant had no locus standi to file the complaint. Consequently, the State Commission declined to exercise jurisdiction and left the complainant to pursue their remedy by way of suit.

3. FEELING aggrieved against the dismissal of the complaint by the State Commission, the Firm has come before this Commission in appeal.

4. WE need not discuss in detail this case because it is covered by exactly similar case titled M/s. Ajmer Singh Cotton and General Mills v. The Branch Manager, United India Insurance Company "It is to be noticed that in the present case the claimant is not making any grievance about the amount paid under the claim lodged under the policies. It is also not their case that the receipts were got executed by fraud or under undue influÂ¬ence. Their grievance is that the Insurance Companies have been negligent in the rendering of services.

It was further remarked : "As noticed earlier, the claimant has of course, given full and final discharge receipts of the claim. The discharge can only be considered under the policies but the present claim does not arise under the insurance policies and, therefore, it is difficult to hold that the full and final discharge receipts issued by the comÂ¬plainant would cover the present claim under the Act."

This Commission allowed that complaint and awarded interest as compensation to the Complainant on the amounts paid under the policies. (In that case two Insurance Companies had issued the policies of Insurance.) In view of the above observations made by this Commission in M/s. Ajmer Singh Cotton and General Mills, we order that the United India InsurÂ¬ance Company shall pay interest to the claimant at the rate of 18 per cent per annum on the amount of Rs. 9,69,719/- after the expiry of two months from 12th July, 1990 (which is the date of receipt of Surveyor''s report) till the date the amount was paid. The Insurance Company is given two months time from the receipt of this Order to pay the amount where after the amount will carry interÂ¬est at 18% per annum. The complainant is also allowed Rs. 1,000/- by way of costs against the Insurance Company.

5. IT may be mentioned that the respondent No. 4, the State Bank of Patiala is the banker of the appellant firm from whom credit facilities have been obtained by the firm but no relief has been claimed against the banker.

