
(2007) 07 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

BALASADI MAHALAKSHMI

APPELLANT

Vs

Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 31-07-2007

Acts Referred:

Citation : 2007 3 CPJ 384

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Final Decision : Appeal dismissed

Judgement

1. -THIS appeal is directed against the order of the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad in CD No. 34/1997 dated 31.10.2002, wherein the complainant's complaint was dismissed.

2. CASE of the complainant in brief is that she is the owner of the fishing boat No. FKKD 330 with Port Office, Kakinada, which was built in partnership with S. Koteswara Rao in 1992. The boat was insured with the Oriental Insurance Company Ltd. for Rs. 8 lakh on 17.7.1994. The husband of the complainant has been maintaining the boat properly by appointing a trained driver and well experienced luscars. The boat sailed towards Vodalarevu area and resorted trawling operations in 21 fathom depth towards Antheravedi area from 11 a.m. of 15.8.1994. Suddenly, the weather condition changed with squally winds followed by scattered rains from the afternoon of 17.8.1994 resultantly the sea became stormy. Therefore, the crew suspended the fishing operations and they returned towards Bhyravapalem. Due to heavy swell of waves, the boat was being affected with rolling and pitching movements even then they reached Kothapalem cope area at about 6 p.m. on 17.8.1994. Due to highly elevated cross currents the steering chain link snapped very suddenly and due to continuous violent waves, the boat capsized and the crew jumped into the sea by holding on to empty oil cans and boat gradually sunk and drowned by 7 p.m. The crew was rescued by one engine boat which was returning from fishing due to bad weather. They were brought to Bhyravapalem at about 1 a.m. on 18.8.1994. On the morning of 18.8.1994 they informed the mishap of the boat to the

owners. Soon after that the complainant intimated the disaster to the Insurance Company, Port Officer, Kakinada and other concerned officers. The Insurance Company appointed M/s. J.B. Boda Marine Surveyors, Kakinada. The Surveyors interrogated the crew of the complainant boat and sought several clarifications from the complainant. When the weather improved, the complainants conducted search operations on 28.8.1994 and 29.9.1994, but could not trace out the boat. As the complainants faced financial crisis and mental tension they had filed a complaint before the State Commission, with a request to direct the Insurance Company to pay Rs. 8 lakh with 24% interest with costs. The State Commission heard the learned Counsel of both parties and after going through the record dismissed the complaint.

Aggrieved by the order of the State Commission, the complainant has filed this appeal before us. In this connection, it is worthwhile to go through the following report of the Surveyor : 1. Based on our inquiries with the crew members of the vessel we observed that the statements of the crew have not corroborated with each other. Particularly, the date, time and place of the incident reported by the crew members had differed from person to person. We are of the opinion that the crew members produced by the insured for our interrogations were not belonging to the ill-fated vessel and were not on board the vessel at the time of the incident. Notarised statements are enclosed.

2. We have scrutinized the statements of the crew members of the ill-fated vessel, the rescue boat and observed that they are also not corroborating with each other.

3. We made discreet inquiries with fishermen of Kakinada and also at various places and understand that F-KKD-330 had not met with any casualty on 17th August, 1994 as reported by the insured/vessel crew. The vessel is being operated from Nizampatnam or Krishnapatnam ports with another registration number.

4. Subsequent to our initial survey/inspections, we advised the insured vide our letter No. KKD/94/ISRN/438, dated 10th December, 1994 to submit to us the necessary documents to compile our survey report. However, the insured failed to submit the same.

5. We are of the opinion that the case may be treated as NO CLAIM on the insurers.

3. WE have heard the arguments of learned Counsel Mrs. K. Radha for the appellants. The complainants have not made serious efforts and effective salvage operations of the "sunken" vessel. They have not recovered even a piece of wood or metal of the fishing boat. Report of the independent Surveyors has clearly falsified the claim of the complainant. The crew members, who jumped into the sea to save their lives, were rescued unhurt, without even a scratch on their body, which is strange. Hence, we do not see any merit in this appeal, accordingly it is dismissed. There shall be no order as to costs. Appeal dismissed.