(2017) 03 NCDRC CK 0072

In the National Consumer Disputes Redressal Commission

Case No : 1150 of 2013

Balraj Hardware Store — APPELLANT

Vs

Reliance General Insurance Co. Ltd. and another — RESPONDENT

Date of Decision : 08-03-2017

Acts Referred:

Citation : 2017 2 CPJ 373 : 2017 3 CPR 12

Hon'ble Judges : B.C. Gupta, S.M. Kantikar

Advocate : Bharat Swaroop Sharma, Shashwata Pandey

Judgement

1. The brief facts relevant for disposal of this revision petition are that the petitioner-complainant insured his total stock of hardware with the OP-Reliance General Insurance Co. Ltd. for the period from 28.2.2009 to 27.2.2009. It was issued after due verification by the OP and worth upto Rs. 21,77,840. On the intervening night of 3-4th March, 2009, fire took place in the hardware store and caused loss for about Ks. 25 lakh. Immediately, the petitioner-complainant informed the Police Station, Samalkha about the incident on 4.3.2009. He sought help of fire brigade to control the fire and also informed the OP/Insurance Company immediately at its office Panipat. On IS.5.2009, complainant submitted several documents as demanded by the OP. As per the policy conditions, the complainant was entitled for insured sum as per the assessment of loss made by surveyor but the OP-company without any reason repudiated the claim on 14.9.2009.

2. Aggrieved by the unlawful repudiation made by OP/Insurance Company, the complainant filed a complaint before the District Forum, Panipat. The District Forum, Panipat allowed the complaint and directed the OP to pay Rs. 6,21,925 to the complainant along with interest@8% per annum from the date of filing of the complaint. It also awarded Rs. 2,200 as costs.

3. The OP challenged the order of District Forum by way of tiling first appeal before Haryana Stale Consumer Disputes Redressal Commission was accepted and dismissed the complaint. Hence, this an revision petition.

4. We have heard the learned Counsel for both the parties Counsel for the petitioner-complainant vehement argued that the State Commission has not considered properly the documentary evidence available on record and the OP has not settled the legal claim. The State Commission technically allowed the appeal on the basis that the question of law and facts involved in this case for which elaborate evidence is required, it cannot be decided in summary proceedings.

5. As noted, the proposal form for the insurance was received in the office of OP on 5.3.2009 and it shows risk the cover was given from the back. date i.e. 28.2.2009. Thus, it shows mala fide on the part of complainant playing fraud with the Insurance Company in connivance with the officials of company. As per explanation Clause no. 13, the claim was rightly repudiated

6. We have perused the insurance policy, the surveyor''s report and relevant documents on file. As per surveyor''s investigation report, the complainant was not having insurance coverage on the date oi loss and the insurance policy was issued from back date. It was obtained fraudulently by the complainant after the date of incident i.e. in the intervening night of 3-4.3.2009 without disclosing the fire. The police report was generated on 6.3.2009 at 8.00 a.m. whereas the alleged incident took place on 3-4.3.2009. On perusal of policy, it is clear that the OP/insurance company''s Branch received the proposal on 5.3.2009 at 12.38 hours and the policy was issued on 6.3 .2009 and the risk given was shown as from 28.2.2009. Therefore, in our view, the complainant violated the General Condition Exclusion No. 13 of the policy. It is reproduced as below: "General Condition No. 13. "Fraud": If any claim under his Policy shall be in any respect fraudulent or if any fraudulent means or device are used by the Insured or any one acting on the Insured''s behalf to obtaiSn any benefit under this Policy, all benefits and rights under the Policy shall be forfeited."

7. In the instant case, the OP also investigated the matter through Royal Associates, the investigating and detective agency. The opinion given by the agency that insured/complainant has managed and submitted fake bills. All the bills issued encashed where huge money was involved. The complainant has neither provided bank statement nor a PAN Card. It is pertinent to note that the complainant was running his business for last 15 years and never got insurance cover earlier but at first time he has insured his shop with the back dated fire insurance policy. Also, there is no cogent evidence to prove that the stock in the shop was at the tune of Rs. 25 lakh. Thus, in our view, the complainant has not approached the Forum with clean hands, thus, the repudiation made by the OP was correct.

8. On the basis of foregoing discussion, we do not find any error apparent in the impugned order of State Com mission. The revision petition has no merit, accordingly, it is dismissed. No cost. Revision Petition dismissed.

