

(2006) 03 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

C Rajalakshmi

APPELLANT

Vs

NATIONAL INSURANCE COMPANY LTD

RESPONDENT

Date of Decision : 02-03-2006

Acts Referred:

Citation : 2006 3 CPJ 411

Hon'ble Judges : K.SAMPATH , R.VANAROJA J.

Judgement

1. THE complainant in C.O.P. No. 20/2000 on the file of the District Consumer Disputes Redressal Forum, Erode, is the appellant. The complainant was the owner of a Premier Padmini Car 1995 model. She had insured it for the period from 9.4.1997 to 8.4.1998. The car met with an accident on 1.6.1997 at 3 p.m. The opposite party on being notified had the car surveyed by an independent Surveyor Mr. R. Sundaramoorthy. He gave an assessment of Rs. 15,265.75 less Rs. 3,000 towards salvage of parts - net payable being Rs. 12,265.75. According to the complainant, she had purchased spares for Rs. 13,080 and incurred labour charges in a sum of Rs. 11,050 and the total payable was Rs. 24,130. The Insurance Company based on final bills sent a voucher with letter dated 14.10.1997 for Rs. 11,990 towards the net amount payable. It was not accepted. The complainant sought the reasoning for arriving at Rs. 11,990, the opposite party sent a reply on 23.10.1997. The complainant sent her objections for calculating depreciation and for reduction of labour charges by letter dated 8.11.1997. The opposite party explained how in the discussion between her representative Mr. Sivakumar and the opposite party it was agreed to reduce the labour charges. The complainant thereafter sent a letter dated 28.11.1997 requesting payment of Rs. 19,167 in settlement of the claim. The opposite party refused to pay the amount stating that they could not overlook the policy conditions relating to depreciation. There was protracted correspondence which ultimately resulted in the complaint before the District Forum, Erode. The opposite party took a stand that the amount of Rs. 11,990 offered was based on Surveyors assessment, that in terms of the policy condition depreciation had to be taken into account and could not be ignored and in any event the complaint

was barred by limitation the accident having been taken place on 1.6.1997 and the complaint having been filed on 6.3.2000.

2. THE District Forum by order dated 24.7.2001 held that in the absence of any affidavit by Mr. Sivakumar to the effect that he has not accepted the depreciation and reduction in labour charges as stated in Ex. B4, the contention of the opposite party that depreciation and reduction were justified and should be accepted, that the complainant had changed her demand to Rs. 19,167 in her letter dated 28.11.1997 Ex. A9 but filed the O.P. for Rs. 24,130, that the cause of action once started could not be enlarged by correspondence between the parties and that the complaint ought to have been filed on 31.5.1999 but it was filed only on 6.3.2000. Holding thus, the District Forum dismissed the complaint with a cost of Rs. 1,500 as according to the District Forum, the time of the Forum was wasted and the opposite party had been harassed. There was no repudiation of the contract by the opposite party. It had offered to settle the claim and given a figure. The complainant wanted the policy conditions relating to depreciation to be overlooked.

3. IN any event, it is clear that the complaint had been filed out of time in that the cause of action having arisen on 1.6.1997 i.e., the date of the accident, the complaint ought to have been filed before 31.5.1999. It came to be filed on 6.3.2000. The District Forum had rightly held that it was barred by limitation. In our view, the conclusion reached by the District Forum is correct. No interference is called for.

4. IN the result, the appeal fails and the same is dismissed. There will be no order as to cost. Appeal dismissed.