(2002) 02 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

CHUNILAL JEWELLERS APPELLANT

Vs

Oriental Insurance Co. Ltd. RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Citation : 2002 0 CTJ 718 : 2002 1 CPC 647 : 2002 1 CPR 210 : 2002 2 CLT 285 : 2002 3 CPJ 424

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by the appellant, M/s. Chuni Lal Jewellers against the order of the State Commission dismissing the complaint giving liberty to the complainant to agitate his claim before the appropriate Forum.

2. BRIEF facts of the case are that the appellant had obtained a Jewellers Block Insurance for Rs. 71 lakh (Rs. 70 lakh property for insured on premises and Rs. 1 lakh for cash and currency notes). There was a robbery in the shop of the complainant on 26th May, 1993. The complainant preferred a claim of Rs. 42,44,992/- against which claim was settled by the respondent for Rs. 31,61,200/-. It is for the payment of balance amount that the complaint was filed alleging deficiency in service on which both the parties were heard and State Commission dismissed the complaint and directed the complainant to agitate his claim before the appropriate Forum as the examination of the claim shall involve production of both oral and documentary evidence and various conditions of the policy involving elaborate discussion. Inference was that this cannot be dealt with in the summary procedure adopted by Consumer Forums. Counsel for the respondent remaining absent it was decided to proceed with the case ex parte. It was argued by the learned Counsel for the appellant that the State Commission erred in not dealing with the case on merits. On merits his case is that the assessment of the Surveyor appointed by the respondent Company is based on average method, whereas the loss should have been assessed on market price. Methodology adopted for assessment by the Surveyor

is wrong and cannot be sustained.

We have seen the Surveyor''s report. There is nothing like average method adopted by him. Method adopted by him was value of stock plus fresh purchases of Gold and added labour charges plus purchase tax paid and divided this by the total weight arriving at a figure of Rs. 321.78 per gm. One of the key observation of the Surveyor is : "Though the insured have given a break-up showing each type of ornament lost (see the Claim Bill), they are unable to substantiate the same. The insured do not maintain individual item-wise records showing for example how many necklaces, bangles, rings, etc. they have on hand at any time. The insured have reportedly worked out item-wise details of the ornaments lost from the empty spaces left in the trays. (iv) The insured do not maintain separate monetary records for various caratage of ornaments purchased/sold. We have, therefore, had to work out the valuation and the claim amount on the total stocks of ornaments as separate carat-wise details were not available."

3. OUR perusal of the Proposal Form shows that "Valuation basis" (Column 6) was to be "Cost + 10%". What we also see is that as per terms of policy the loss assessment has been made on the basis of costing of Rs. 321.78 gm. + 10%. We see no merit in the contention of the complainant that "Cost" in the policy means prevailing market price. "Cost" is what it cost the insured to buy the item gold in this case at the time of purchase and converting it into jewellery. Cost is to be seen as a purchase price and not the selling price. The sole ground for filing this complaint was that lost jewellery should have been valued at market price by the Surveyor and not by any other method. In view of discussion above, we find no merit in the complaint or the appeal filed before us, hence dismissed. No order on costs. Appeal dismissed.