(2003) 05 NCDRC CK 0112

In the National Consumer Disputes Redressal Commission

Devendra Singh APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD. RESPONDENT

Date of Decision : 13-05-2003

Acts Referred:

Citation : 2003 3 CLT 76 : 2003 3 CPJ 77

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. PETITIONER was the unsuccessful complainant and appellant before the District Forum and the State Commission respectively.

2. BRIEF facts of the case are that the petitioner/complainant had purchased a tractor having obtained loan from the 3rd respondent, State Bank of Indore and was insured with the 1st and 2nd respondents for the period 20.8.1994 to 19.8.1995. Even though the complainant resides in Bhind (M.P.) on account of personal reasons the tractor was kept with a friend at Gwalior. When the complainant went to Gwalior on 16.11.1994 to collect the tractor, he did not find the tractor there. Theft was reported to police on 20.11.1994; theft incident was reported to the Bank on 26.11.1994 and the insurer''s were informed by the Bank of the theft only on 12.12.1994. Claim was preferred with the insurers on 1.6.1995 which was repudiated by the insurers on 18.5.1996 on the ground that the complainant/insured had violated the terms of the policy. It is in these situations that a complaint was filed by the complainant before the District Forum alleging deficiency in service on the part of respondent Nos. 1 and 2. District Forum after hearing the parties and perusing material on record dismissed the complaint. In appeal filed by the petitioner before the State Commission was dismissed, hence this revision petition. It is argued by the learned Counsel for the petitioner that State Commission was not correct in relegating the matter to the Civil Court. It should have dealt with the case itself. There is bound to be some violations of the terms of policy by the parties. In their case there has been no violation of any terms of the policy. Both the lower Forums have erred in not

holding the respondent Nos. 1 and 2 deficient in service.

We have heard the learned Counsel for the petitioner and perused the material on record. There is no disputing the fact that loss of tractor was reported to the police after four days of the reported loss, loss was reported to the insurer after a gap of almost a month. State Commission has dealt with these points with reference to Condition Nos. 1 and 5. We see that conclusion reached by the State Commission as per law. A point has also been made that the State Commission could not have (sic.) the case to Civil Court, in stead it should have dealt with the case itself. Order of the State Commission is quite clear, they have dismissed the appeal on merits. It could have stopped at that but in order to keep the door open for the petitioner to try his luck elsewhere for which benefit of exclusion of time was granted under Section 14 of the Limitation Act. There is an additional help rendered. Appeal has been considered on facts and law of the case and dismissed after finding that repudiation of the claim by the 1st and 2nd respondent was justified. This Revision Petition lacks merits and is dismissed. No orders as to costs. Revision Petition dismissed.