
(2001) 05 NCDRC CK 0081

In the National Consumer Disputes Redressal Commission

DIVISIONAL MANAGER, NATIONAL INSURANCE COMPANY

APPELLANT

Vs

HARI CHARAN GUPTA

RESPONDENT

Date of Decision : 07-05-2001

Acts Referred:

Citation : 2001 3 CPJ 435

Hon'ble Judges : D.M.Patnaik , Arati Mohanty , Pramodnath Das J.

Final Decision : Appeal partly allowed

Judgement

1. HEARD Mr. Ray, the learned Counsel for the appellant-Insurance Company. None appears for the complainant-respondent. 1. We have perused the impugned order. The complainant claims to be the owner of the vehicle bearing No. BES-9142, a truck which was insured with the present appellant for a sum of Rs. 3,50,000/- vide Insurance Policy No. 320805/100/0/6301333 which was valid from 26.10.1989 to 25.10.1990. Admittedly the accident took place on 13.9.1990. The case of the complainant is that he moved the present appellant for several times to settle the claim but they did not pay any heed for which the complainant was forced to file the complaint case on 12.1.1994 as the record indicates admitted. The Insurance Company admitted this fact of insurance and the accident but finally settled the claim for Rs. 54,000/- which the complainant received on 14.2.1994.

2. ON perusal of the impugned order of the District Forum, we find that compensation has been awarded over and above the portion of the amount insured under the policy as well as the costs of Rs. 500/-. The contention of Mr. Ray is that once the insured accepted the amount in full and final settlement of the claim he cannot go back and claim any higher amount after such settlement. Mr. Ray has relied on two decisions one of the Supreme Court reported in 1999 CCJ page 1158, and another in N.C. reported in 1997 CCJ page 402. We have carefully gone through the decisions of the above cases and we find in both the cases the claimants received the amount in question before filing of the complaint case. But in the present case, the complainant received the amount

when the original case was pending and this is the distinguishing features in the cases relied on. However Mr. Ray is critical about the fact that at no point of time the complainant after having received the amount indicated either in the receipt or in the complaint petition that in fact he had any reservation in receiving this amount in full and final settlement of the claim. We accept the contention of Mr. Ray and, therefore, we have thought it appropriate that the award should be confined only to the amount of Rs. 54,000/- besides the interest of 12% per annum to be paid by the Insurance Company to the complainant from the date of the accident i.e. 13.9.1990 till 15.2.1994. We are not inclined to grant further interest to the complainant because he did not mention anything that he received the amount under protest. We accordingly allow this appeal in part and modify the order of the District Forum. Dr. Arati Mohanty, Member-I agree. Mr. Pramodnath Das, Member-I agree. Appeal partly allowed.