

(1993) 08 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

Divisional Manager, Oriental Insurance Co. Ltd.

APPELLANT

Vs

SHRIKANT PANDHARINATH YEOLE

RESPONDENT

Date of Decision : 20-08-1993

Acts Referred:

Citation : 1994 3 CPJ 462 : 1994 3 CPR 488

Hon'ble Judges : G.G.Loney , M.G.Gavai J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the order of District Forum, Nasik dated 31.3.1993 passed in Complaint No. 232/92. A complaint filed by Shrikant P. Yeole, claiming loss on account of loss his truck has been allowed by the District Forum, by the impugned order. The District Forum, directed the Opposite Party, the Insurance Company to pay the value of two tyres alongwith the disc and the value of one stepney to the complainant. Shortly stated the facts of the complaint were that complainant's truck insured with the Opposite Party was stolen on 18.7.91 and when it was found on 22.7.1991, one pair of tyre with disc, one stepney and dynamo of the truck were stolen. According to the complainant, his claim for the aforesaid items was refused by the Opposite Party on the ground that they are not covered in the policy. According to complainant, the Opposite Party refused to reimburse the amount of the aforesaid parts.

2. WE have heard Shri Tipnis, Advocate for the appellant and respondent by the Shri K.B. Chand Wadkar, Advocate. According to Shri Tipnis under the item No. 26 of the conditions, only in case of total loss, damage to tyres is granted and in no other circumstances. The aforesaid reasoning did not find favour with the District Forum. According to District Forum, on close reading of the conditions, if a loss is caused to the tyres during the ordinary course of use i.e. while running or by getting damage due to some external intervention like, nail tin etc. or if the tyres or tubes become unworthy of the use due to expiry of its life then the Insurance company is not obliged to settle the complainant's claim. WE agree with the views explained by the District Forum to reject the conditions of the

Insurance Company. Moreover on the basis of the facts it is found that when the truck was stolen, it was an act of total loss but when it was found, the tyres, stepney and disc were found lost. In any case, the loss of the aforesaid articles is in the incident of total loss caused to the complainant and therefore, the Insurance Company is liable to settle the claim of complainant for the value of these articles. Hence we find that there is no substance in this appeal. Hence the appeal is dismissed. Appeal dismissed.