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(2000) 05 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

FASHION POINT APPELLANT

Vs

United India Insurance Co. Ltd. RESPONDENT

Date of Decision : 17-05-2000

Acts Referred:

Citation : 2000 1 CPC 534 : 2000 2 CLT 140 : 2000 2 CPJ 552 : 2000 2 CPR 585

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Appeal allowed

Judgement

1. THE complainant Mukesh Garg Proprietor of the M/s. Fashion Point had obtained insurance policy for the sum of Rs. 2,50,000/- w.e.f. 10.12.1994 to 9.12.1995 in respect of stock of clothes lying in the shop located at Manimajra, Chandigarh. A theft took place in the shop during the night of 7th and 8th August, 1995 for which the complainant has claimed a sum of Rs. 3,43,600/- including the loss suffered and amounts spent on litigation expenses and mental harassment. THE District Forum-II in its judgment dated 18.1.2000 has directed the opposite party to pay Rs. 8,715/- to the complainant alongwith the interest @ 12% per annum from the date the claim was repudiated till payment and the costs Rs. 1,100/-. Aggrieved against this judgment, the present appeal has been preferred.

2. BRIEFLY the facts are that the appellant had obtained an insurance policy from the respondent United India Insurance Co. Ltd., Chandigarh for a sum of Rs. 2,50,000/- w.e.f. 10.12.1994 to 9.12.1995 in respect of stock of clothes etc. lying in the shop located in Manimajra. Table of the stocks statement verified by the Bank for the month of July, 1995 is reproduced as under : Statement of Stock Position M/s. Fashion Point, Union Bank of India S.C.O. 857, N.A.C.M, Sector 7, Panchkula Mazara, Chandigarh. Date 31.7.1995 Description of Goods Value Opening Stock 6,20,980.00 Add : Purchases 22,836.00 Add : G/Profit 8,645.00 6,52,461.00 Less : Sale 37,871.00 Closing Stock 6,41,871.00 Details of Stocks 75,891.00 1. Suiting 88,650.00 2. Shirting 68,485.00 Ladies Prints 88,980.00 Sarees 6,830.00 Tawels 7,240.00 Blaser and Fale 78,796.00

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6,14,871.00 The theft took place in the shop during the night of 7th and 8th of August, 1995 and he lodged an F.I.R. with the police and laid the claim from the respondent. The complainant had given evidence of the stock which has been verified by the Bank. The Insurance Company appointed a Surveyor who also verified and confirmed the stocks. However the claim was repudiated by the respondent through letter dated 23.4.1996, saying that M/s. Elora Textile is a fake firm.

The main plea is that the appellant had tried to get higher benefit by procuring the cash/credit memo showing purchases from M/s. Elora Textiles, a firm which does not exist. The Counsel for the appellant during the arguments has no longer pressed the plea regarding the validity of the firm and has no objection if the total amount shown against this firm may be excluded. Even the Surveyor had pointed out that the cash/credit memo obtained from M/s. Elora Textile are not genuine. In any case the Surveyor had ignored the purchases made from M/s. Elora Textiles. He entered the details of the transactions and the existing stock and still assessed the loss only at Rs. 8,715/-.

3. AFTER hearing the learned Counsel of both the sides and verifying the record and the stocks of the appellant verified by the Bank every month including at the time of theft, this Commission finds that deficiency on the part of the respondent is established. The impugned order of the District Forum-II requires modification. The respondent is held liable to pay Rs. 2,50,000/- less Rs. 66,000/- the amount shown against M/s. Flora Textiles, i.e. Rs. 1,94,000/- to the appellant within two months failing which interest @ 12% per annum, from the date of the order. Appeal allowed.

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