(1991) 08 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

GAYATRI DEVI SINGHANIA — APPELLANT

Vs

National Insurance Co. Ltd. — RESPONDENT

Date of Decision : 30-08-1991

Acts Referred:

Citation : 1992 1 CPR 386 : 1993 1 CPJ 314

Hon'ble Judges : R.N.Mittal , B.L.Anand , Avtar Pennathur J.

Final Decision : Complaint dismissed

Judgement

1. BRIEFLY the facts are that the complainant insured her house- hold goods with the respondent and paid a premium of Rs. 8,946/- vide receipt number 617780 dated 3rd June ''87. The goods were insured for the period from 1.6.87 to 1.6.88. The insurance policy covered jewellery and valuables belonging to the complainant against all risks of loss/damage.

2. THAT a part of the jewellery, the subject- matter of the insurance, consisting of one Diamond Set, (8 pieces) sarees, suits and cash all collectively valued Rs. 6,17,082/- were stolen alongwith attache-case in which those were packed. The complainant lodged FIR No. 356/87 dated 27.12.87 in the Police Station. They are unable to trace the theft and submitted a report dated 20.1.88 in that regard. The respondent was informed about the theft. However, they inspite of various letters and telephonic requests did not decide the claim for a long time. Ultimately they repudiated her claim vide letter dated 16.10.89. Consequently the present complaint has been filed by the complainant for directing the respondent to pay Rs. 6,17,082/- with interest @18% p.a. w.e.f. the date of the lodging of the claim till the recovery of the amount.

The complaint has been contested by the respondent. It was inter-alia pleaded that a thorough investigation of the incident was made by the respondent. They appointed a special investigator to investigate into the matter. The claim was repudiated after taking into consideration the report of the investigator and the facts of the case. It is further stated that in the aforesaid situation the Commission has no jurisdiction to decide the complaint.

3. THE main question that arises for determination is whether in view of the repudiation of the claim by the respondent the Commission should decide the complaint on merits. THE claim has been repudiated by the respondent after making full enquiry by them. It is not necessary to dilate on this point as the matter has been decided by the National Commission in Janta Machine Tools v. Oriental Insurance Company Ltd., I (1991) CPJ 234 (NC). THE relevant observations of the Commission are as follows: - "From the facts disclosed by the record and particularly the averments contained in the counter affidavit filed by the first respondent it is seen that the Insurance Company had fully investigated into the claim put forward by the complainant, got surveys conducted and had finally come to the conclusion that the claim put forward by the complainant was false and accordingly informed the complainant that this claim was rejected. Thus this is not a case where the Insurance Company did not take prompt and necessary steps for deciding the claim under the policies of insurance. It may be that the complainant is not satisfied with the said rejection of his claim by the Insurance Company. Having regard to the facts and circumstances of this case and the nature of the controversy between the parties we consider that this is a matter that should be adjudicated before a Civil Court where the complainant as well as the respondent will have ample opportunities to examine witnesses at length, take out Commission for local inspections etc. and have an elaborate trial of the case."

The same view was taken by us in M/s. Rajdeep Leasing & Finance (Delhi) Pvt. Ltd. v. Asstt. General Manager, New India Assurance Co. Ltd. & Ors., I (1991) CPJ 302.

4. FOR the aforesaid reasons we dismiss the complaint. However, the complainant may have recourse to a Civil Suit if she so desires. No order as to costs. Complaint dismissed. ______________

