(1993) 02 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

GENERAL INSURANCE CORPORATION OF INDIA — APPELLANT

Vs

K.Krishna Murthy — RESPONDENT

Date of Decision : 24-02-1993

Acts Referred:

Citation : 1993 1 CPR 630 : 1993 3 CPJ 1422

Hon'ble Judges : A.Venkatarami Reddy , Venkateswara Rao , J.Ananda Lakshmi J.

Final Decision : Appeal allowed

Judgement

1. THE M/s. General Insurance Corporation of India is the opposite party in C.D.C. No. 383/91 before the District Forum, Rajahmundry. THE respondent herein is the complainant in the above C.D.

2. BRIEFLY stated the complainant, the respondent herein in this appeal, is a resident of Kondavaram village, in Kothapalle Mandal, East Godavari District. He obtained a loan of Rs. 10,000/- from the Primary Agricultural Co-operative Credit Society, Kondavaram on 11.6.1990. On the same day, premium of Rs. 200/- was paid to the Complainant herein through the Primary Agricultural Credit Society, Kondavaram towards Comprehensive Crop Insurance Scheme for the Khariff Season 1990-91. The paddy crop raised by the complainant was completely damaged due to floods and Tungro virus. The complainant wrote to the Complainant claiming the insured amount. But the Complainant informed the complainant on 7.6.1991 that "the claims under Comprehensive Crop Insurance Scheme are payable as per overall crop losses incurred in a particular mandal/ group of mandals and based on crop losses on an individual farm". As per the yield date received from the A.P. State Government the crop loss is approximately 2% compared to the guaranteed yield during Kharif 1990 season for paddy crop in Kothapalli mandal. The claim amount i.e. approximately 2% of sum insured would be shortly released to District Cooperative Central Bank, Kakinada". The complainant filed complaint in the District Consumer Forum on 24.6.1991 claiming the insured amount of Rs. 20,000/- towards damages to

crop, interest and conveyance expenses incurred, and Medical expenses incurred, and Medical expenses incurred on heart ailment due to mental agony because of the circumstances. In the counter filed by the opposite party it pleaded firstly that it is merely an agent of Central and State Government Insurance Fund and they are necessary parties. Secondly, that under the Comprehensive Crop Insurance Scheme, an individual cannot claim the loss suffered by him for the crops raised by him. The scheme operates in notified areas and notified crops for the benefit of the fanners in the notified area with respect to the notified crop insured by them. The defined area of unit of Insurance in Andhra Pradesh may be a mandal or a group of mandals in the State, for which the yield date for the last 3 or 5 years are available for each notified crop. Under the scheme for the insured crop in defined area in the instant case, Kothapalle Mandal there is threshold yield of granted yield which is uniform for all the farmers in a defined area based on last 3/5 years yield data, was fixed. During the season the Bureau of Economic Statistics of A.P. conducted the required number of crop experiments under the Crop estimation service and random sample basis and estimated the actual yield for heetare for the crop in the Insurance unit. The actual is then compared with the threshold yield, the short fall is determined and compensation payable is arrived at by applying the formula i.e. Threshold yield for yield/ Threshold X sum assured, and compensation will be paid accordingly. In the present case, Kothapalle mandal, threshold yield is 1914 Kgs. per hectare and the actual average yield is 1876 Kgs. per hectare for paddy crop during Khariff season 1990-91. Therefore, applying the above formula the claim payable would be Rs. 1914-1876X 1000=198. 53 ps. The claimant is not entitled to anything by way expenditure incurred or other expenses towards conveyance etc. It is also submitted that the average Khariff season from 1985 to 1990 a premia of Rs. 22.07ps. was collected and a sum of Rs. 87.66 was paid by way of claims and that therefore, the scheme is beneficial to the fanner as a whole. The validity of the scheme and its beneficial nature has been upheld by the Andhra Pradesh High Court in W.P.No. 11822/87 and batch dated 23.8.1988 and it was, therefore, submitted that the claimant was entitled to payment of Rs. 198.53ps.

The District Forum held that the complainant is an agriculturist and paid a sum of Rs. 200/- for insuring the paddy crop of Khariff season, 1990. It further found that paddy crop of the complainant was completely spoiled in the year 1990 as evidenced by Ex. A.5 a certificate issued by the Agricultural Officer. As the complainant has insured crop with the Opp. Party, he is entitled for indemnification of the loss sustained by him due to damage of the crop. It further held that there is nothing on record to show that the damage of the complainant is only 2% of the insured amount. Relying on the certificate issued by the Agricultural Officer as the complainant has suffered the total failure of the crop, the District Forum directed payment of a sum of Rs. 10,000/- the complainant towards loss of crop with 12% p.a. from June, 1991 till payment; a sum of Rs. 500/- as damages and for inconvenience, and mental agony caused to the complainant and Rs. 200/-towards costs.

3. AGGRIEVED by the same, the General Insurance Company of India preferred this appeal. Two contentions have been raised in this appeal. Firstly that the District Forum erred in holding that the Complainant herein i.e. the General Insurance Company India Limited is liable to reimburse the crop loss suffered by each individual while under the present Insurance scheme the loss is calculated in a defined area on the formula of threshold yield minus actual yield multiplied by the sum assured and divided by the thresh old yield, in which event the Complainant is liable to pay only Rs. 198.53 ps. The second contention is that the General Insurance Company of India is merely an agent for administering Comprehensive Insurance Scheme on behalf of the Central and State Government and that, therefore, the Central and State Governments should have been made as parties to the complaint and directions should have been issued against them only. In order to appreciate the first contention reference may be made to some of the salient provisions of the Comprehensive Crop Insurance Scheme 1985- 86 framed by the Central Government. The objectives of the scheme are: (i) to provide a measure of financial support to farmers in the vent of a crop failure as a result to drought, flood, etc.; (ii) to restore the credit eligibility of farmers, after a crop failure, for the next crop season; and (iii) to support and stimulate production of cereals, pulses and oils seeds. Some of the salient features of the scheme is that it covers crops of rice, wheat, millets, oil seeds and pulses. The fanners to be covered are all farmers availing crop loans from Cooperative Credit Institutions, Commercial Banks and regional rural banks for raising the aforesaid crops. The scheme will operate in defined areas for each crop as may be notified by the Union Ministry of Agriculture. A defined area may be a District, Tehsil/Taluka, Block or of her smaller contiguous area. The nature of coverage mentioned as if the actual average yield per hectare of the insurance crop for defined area determined on the basis of crop cutting experiments in the insured season, falls short of the specified threshold yield all the insured farmers growing that crop in the defined area are deemed to have suffered short fall in their respective yields and the scheme seeks to provide coverage against such contingency. The threshold yield of crop for defined area is 80% of the average yield per hectare of the crop for defined area from the last five years (or such shorter period as may be decided for specific defined area) for which data is available based on crop cutting experiments or such other alternative methodology as may be adopted. If there is shortfall in the actual average yield per hectare of the insured crop, each of the insured farmers, growing that crop in the defined area will be eligible for indemnity calculated as under: Short fall in yield/Threshold yield X sum assured for the farmer.

4. THUS it is clear from the above provisions of the Comprehensive Insurance Scheme that the Insurance operates in defined for each notified crop and it provides coverage to all the insured farmers growing that crop in the defined area in case the average yield per acre of the insured crop in that area falls short of the threshold yield determined according to the formula in the scheme. THUS, the scheme indemnifies not the individual farmer, and does not envisage to

indemnify or cover the loss suffered by each individual fanner who joined the Comprehensive Crop Insurance Scheme. It might be that an individual farmer of a notified crop in the notified area may not suffer any loss but according to the scheme if the actual yield in the notified area of the crop is less than the threshold yield he will be indemnified by the difference between the threshold yield and actual yield multiplied by the insured amount. THUS, the scheme covers collectively the farmers who have insured of a specified crop in a particular notified area and not to benefit of any individual as such. In the instant case, according to the statement No. 1 filed in the material papers with regard to the paddy crop in 1990 Khariff season in Kothapalle mandal in East Godavari district is notified as an insured unit mandal/IV with serial No.9 and its threshold yield is mentioned as 1914 Kgs. per hectare and the actual yield on the basis of the 20 crop experiments of the Bureau of Economics and Statistics of Government of A.P. as 1876 Kgs. per hectare. Applying the above formula mentioned in the scheme i.e. 1914- 1876X 1000/1914 the amount payable by the Complainant will be Rs. 198.53 ps. Since the scheme is not based on the loss of crop by one individual who insured the crop in the notified area, it is it of much relevance whether the indivdual farmer loses the entire crop or not. Having regard to the provisions of the present crop insurance scheme although a certificate was issued by the agricultural officer showing the total loss of crop by the complainant and the adangal also supports the case of the complainant that there is total crop failure, the complainant is entitled to indemnification only to the extent of the amount arrived at by applying the formula in the scheme. We, therefore, hold that the complainant is entitled only for payment of Rs. 198.53 ps. So far as the validity of the aforesaid scheme is concerned it was upheld by the High Court of Andhra Pradesh in W.P. Nos. 11822,13115,13116 to 13118 of 1987 dated 23.8.1988. it was observed in the above said batch by Justice Y. V. Anjeneyulu, he then was that "There is denial of the fact that the scheme is devised for the welfare of agriculturists, but then the scheme does not operate in favour of each individual agriculturist. In very nature of things, it is impossible to devise a scheme where under the loss suffered by any single agriculturist could be quantified and reimbursed. I have gone through the provisions relating to the scheme carefully." A broad principle of equity has been adopted in formulating the scheme. The agriculturists are dealt with in a group basis to provide compensation on the basis of average production in a defined area. That is why it has become necessary to formulate a notified area and devise a system on establishing the actual average yield in the defined area through the crop cutting experiments which are scientifically designed to reflect the average yield of the area with a fair degree of accuracy. It is possible that the compensation paid on the above basis may fall short of the loss suffered by individual farmer. But, then, by and large when the average worked out on the basis provided in the scheme, it provides a reasonable compensation to the farmers as group in the notified area." hi W.P. No. 13510/1872, it was held by Mr. Justice Syed Shah Mohammad Quadri, J. by his judgment dated 23.4.1991 following the earlier judgment in batch of writ petitions referred to above that "Although the individual fanners, the writ petitioners therein, suffered loss due to failure of crop as the actual yield is more than a threhold yield of Bogol Mandal, they are not entitled to be indemnified having regard to the provisions of the scheme." Thus, it is evident that the individual loss is not a basis nor a criteria for arriving at the amount to be indemnified under the scheme. Hence for all the above reason we set aside the order of the District Forum. East Godavari, at Rajahmundry passed in C.D.C. No. 383 of 1992directingpaymentof Rs. 10,000.00 as compensation towards loss of paddy crop for Khariff season 1990 with interest at 12%p.a. Consequently, the orders for payment of Rs. 500.00 also damages and Rs. 200.00 towards costs is also set aside. In the view we have taken on point I it is not necessary to consider point II. In the result the appeal is allowed and the order of the District Forum is set aside. No costs. Appeal allowed.

