(1993) 11 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

GOKAL CHANDAndCO APPELLANT

Vs

UNITED INDIA INSURANCE CO.LTD RESPONDENT

Date of Decision : 16-11-1993

Acts Referred:

Citation : 1994 3 CPJ 316

Hon'ble Judges : S.S.Dewan , R.L.Gupta , Gurkanwal Kaur J.

Final Decision : Complaint allowed with costs

Judgement

1. AN important point in respect of the interpretation and scope of the ''Jewellers'' Block Insurance Policy has arisen between the parties in this case and a short resume of the facts is necessary.

2. SHRI Vinod Khanna who is the proprietor of the complainant-firm M/s. Gokal Chand & Co., Amritsar is carrying on the business of selling and purchasing of gold, ornaments and he took ''Jewellers'' Block Insurance Policy from the United India Insurance Company Ltd., Amritsar (for short the Insurance Company'') for Rs. 10 lacs for the period 18-5-1991 to 17-5-1992. This policy was comprehensive one and was divided into three different Sections valued differently, which is apparent from the policy Annexure P2. It is alleged that M/s. Lal Chand Hospital, Secunderabad and one M/s. P. Satyanarayan Sons, Hyderabad had placed order with the complainant through its attorney. Yash Pal Khanna for making of gold ornaments. It was decided between the parties that to execute the order, the said firms would supply old ornaments and the complainant would work upon the old ornaments and make them into new ones as per the design and specification desired by the firms. According to the complainant, on 26-12-1991 Yash Pal Khanna, attorney of the complainant, took delivery of 6 parcels from both the firms, containing old ornaments, as detailed in paragraphs-9 and 10 of the complaint and sent them by insurance registered post from Hyderabad HO Post Office to the complainant at Amritsar. It is alleged that the aforesaid parcels sent by post were damaged in transit and the Golden Temple Post Office, Amritsar intimated this incident to the complainant. The

complainant immediately reported the matter to the Insurance Company and requested it to depute a Surveyor to examine those parcels in his presence. The complainant''s case is that on 11-1-1992, the Surveyor made an inventory of the articles in each damaged parcel and thereafter he made a claim to the Insurance Company regarding the loss suffered by him. The amount of Rs. 3,35,633/- claimed by the complainant under the policy has been indicated in paragraph-41 of the complaint. It appears that the Insurance Company repudiated the claim of the complainant by a letter dated 27-4-1993 (Annexure P48), in the following words:- "We refer you to the said claim and wish to inform you that the said claims cannot be entertained as the same does not come within the coverage of the said policy since our policy covers the Regd. Parcel despatched from the premises of the insured to various places and not vice versa."

The short question is whether there is any deficiency of service by the Insurance Company in rejecting/non-entertaining the claim of the complainant. The complainant put in a number of documents in support of its claim. A perusal of Section I of the covering note of the policy (Annexure P2) ensures the stocks and stocks in trade of gold, gold ornaments and jewellery of all kinds whilst in transit per registered insured post. The terms and conditions of the policy clearly establish that the loss of the insured goods in transit in the manner indicated in the complaint are covered under Section III of the policy. Whereas the firm stand of the Insurance Company is that the loss or the damage to the insured property in transit from the place of the insured is covered under the policy and not vice versa and therefore, the claim of the complainant being unsustainable was rightly repudiated by it.

After having heard the parties, we are of the view that the rejection of the claim put forward by the Insurance Company is based upon the facts which have no reference and have no relevance with the condition of the policy under which the insurance was made. It may at this stage be emphasized that the insurance claim has been made according to the terms of the insurance policy and the loss of the insured goods in transit is one of the grounds for lodging the claim under the said terms and conditions of the policy. The Surveyor deputed by the Insurance Company found that the parcels received by the Golden Temple Post Office were in damaged condition and he made the inventory of the goods found in those parcels. We do not agree with the contention of the Insurance Company that the damage to the insured goods in transit from the place of the insured is covered and not vice versa.

3. IT is settled now that if the Insurance Company arbitrarily and wrongfully rejects the insured''s bona fide claim, taken by such fiat carried itself beyond the pale of the redress before the Consumer Forums. A wrongful rejection of an insurance claim would certainly attract the jurisdiction of these Forums. Equally it is well settled on principle that a harassed insured party can come to the Consumer Forum to seek redress for delay, default and dilatoriness and he cannot be cheated of seeking redress through the Consumer Protection Act by

simple subterfuge of rejecting the claim outrightly and thus driving him to the tortuous and weary patn of civil litigation. In the light of the aforesaid discussion, we hold that the rejection of the claim of the complainant by the Insurance Company is arbitrary, wrongful and mischievous and the Insurance Company cannot wriggle out of its liability under the policy.

4. IN view of our clear finding that the total denial of the claim by the INsurance Company was wholly unwarranted and unjustified, the said repudiation, in the eye of law, stands obliterated. Therefore, the liability under the policy must now be deemed as being otherwise admitted. Herein the complainant promptly intimated the INsurance Company about the lose way back on 6-1-1992. Far from promptly dealing with the claim which in our view stood squarely and plainly covered by the ''Jewellers'' Block INsurance Policy'', the INsurance Company had first procrastinated in finalising the claim and ultimately went to the extent of a wrongful repudiation thereof on 27-4-1993. The complainant is clearly entitled to have its claim settled by the INsurance Company within a reasonable time which we would compute in the present case at three months from the date of the receipt of this order. We would wish to make it clear that the complainant would be at liberty to exercise its right and option to seek arbitration under Clause (19) of the policy as regards the difference in the amount to be paid under the policy. In the light of the above, this complaint is allowed with costs which are assessed at a modest figure of Rs. 3,000/- only which shall be paid by the Insurance Company to the complainant within a month of the receipt of this order, failing which, the compliance would be enforced under Section 27 of the Consumer Protection Act. Complaint allowed with costs.

