(2010) 05 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

G.Pradeep APPELLANT

Vs

Oriental Insurance Co. Ltd. RESPONDENT

Date of Decision : 17-05-2010

Acts Referred:

Citation : 2010 0 NCDRC 49 : 2010 2 CPJ 278

Hon'ble Judges : R.C.Jain , Anupam Dasgupta J.

Final Decision : Revision petition is dismissed

Judgement

1. AGGRIEVED by the order dated 29.10.2009 in first appeal no. 12 of 2006 passed by the Kerala State Consumer Disputes Redressal Commission, Thiruvananthapuram (in short, "the State Commission"), the original complainant has come up with this revision petition. By the aforesaid order, the State Commission set aside the order dated 30.11.2004 of the District Consumer Disputes Redressal Forum, Pathanamthitta, by which the District Forum had allowed the complaint and directed the opposite party (OP - Oriental Insurance Company Limited) to pay a sum of Rs.2,01,573/- towards the insurance claim of the complainant for damage to the insured goods in his shop, along with interest @12% p.a. from the date of complaint till the date of the order and thereafter @6% p.a. as well as compensation of Rs.5,000/- and cost of Rs.2,500/-; all to be paid within two months from the date of receipt of the order, failing which interest @9% p.a. was to apply. In appeal by the OP, however, the State Commission, after considering the report of the surveyor appointed by the OP, directed the latter to pay a sum of Rs.16, 494/- (equal to the sum assessed by the surveyor as the loss suffered by the complainant) along with interest @12% p.a. from the date of the complaint and cost of Rs.2, 500/- as directed by the District Forum.

2. WE have heard Mrs. Indira G., learned counsel for the petitioner and considered the documents and material placed on record. Learned counsel for the petitioner assails the order of the State Commission mainly on the ground that the report of the surveyor (which formed the basis of the impugned order)

was flawed because it did not consider a large number of goods in the insured shop of the petitioner which were affected by the flood water. She has, however, not been able to point out any reason on the strength of which she claims that the report of the surveyor was flawed. On the other hand, on going through the surveyor''s report, we find that the surveyor visited the affected shop and gave detailed and cogent reasons to arrive at the types and numbers of goods which were actually affected by the stagnant flood water which entered the insured shop of the petitioner in the night of 08.07.2001. It is not the case of the complainant that there was a strong current of flood waters flood which carried away several pieces of the insured goods. The case was of submergence of the insured premises upto a height of 3 feet from ground level on account of flood waters resulting from excessive rain. In such a situation, it is logical to conclude that the insured items (like watches, clocks, electronic calculators, telephone instruments, watch straps, time pieces, clock mechanisms, spare parts, etc.) kept in shelves and cupboards above the level of stagnant flood waters could neither be washed away nor damaged. The surveyor made a detailed inventory of the undamaged items as well as those found to have been actually affected beyond repairs and assessed the amount of loss accordingly. We, therefore, do not find any defect in either the methodology or the calculations of the surveyor in assessing the loss of the insured items. Thus, the State Commission has correctly accepted the loss assessed by the surveyor as the amount of payment due to the insured on account of damage to his insured goods. In our view, the State Commission''s order is fully justified and suffers from none of the defects which could warrant our interference under section 21(b) of the Consumer Protection Act, 1986.

As a result, the revision petition is dismissed in limine.