(2006) 06 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

HAJI AKBAR ALI APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD. RESPONDENT

Date of Decision : 21-06-2006

Acts Referred:

Citation : 2006 3 CPJ 298

Hon'ble Judges : B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. HEARD the learned Counsel for the petitioner. This revision petition was dismissed in default on 5.10.2005 and an application has been filed for restoration. Even though we are not very much impressed by the grounds given for non-prosecution shown in the application for restoration but in the interest of justice, we restore this revision petition to its original number subject to some exceptions.

2. WE have heard the learned Counsel for the petitioner on admitting the revision petition. Very briefly the facts of this case are that the petitioner owned a tanker lorry, which was insured with the respondent/opposite party. When one of the gate-valves started leaking, it was taken to the garage for repair. The tanker was filled with water as a precautionary measure before repairing it in the workshop. While the lorry was under repair, after discharging of water, there was sudden blast and the entire tanker was damaged and chassis also got bent. The matter was reported to the opposite party who appointed a Surveyor. The claim was repudiated on the grounds that the cause of loss is not covered by the terms and conditions of the policy.

The main controversy in this case is whether in the facts and circumstances of the case what happened at the workshop was it an ''explosion'' or ''implosion''?

3. THE District Forum after hearing the parties, allowed the complaint and granted necessary relief. On an appeal filed by the respondent before the State Commission, it was allowed and order of the District Forum was set aside by

holding that this case was of an ''implosion'' and is not covered by the condition of the policy. Before us, it was also argued by the learned Counsel that as per the report of the Surveyor, this is what has been stated "as regards ''explosion'', both external and internal explosions are deemed to be covered." (Page 11 of the Surveyor''s report). Relying on this, learned Counsel of the petitioner stated that the Surveyor himself has held that the ''internal explosion'' is also covered.

4. AFTER hearing the learned Counsel for the petitioner and also perusal of material on record, it is necessary to go through the whole report of the Surveyor at Page 7 of its report. The Surveyor has tried to make a clear distinction between the ''explosion'' and ''implosion'' in following terms : Explosion : The explosion Implosion : The pheno- may be defined as a menon of implosion is dia- "sudden violent burst metrically opposite to with a loud report" and the explosion. Where the technical definition an equipment is working is "sudden increase in under vacuum it may pressure in the surroun- also happen that the ding Air or Gases, from external atmospheric sudden and violent pressure could cause expansion of any subs- inward collapse of the tance in their neighbor- equipment. hood."

We have also carefully gone through page 11 of the Surveyor''s report (page 125 of the paper book). There is no dispute that the Surveyor has held both ''external'' and ''internal'' explosions falling within the terms of the policy but he had also clearly indicated "the implosion is opposed to explossion i.e., by either external explosion or internal explosion". This naunce needs to be appreciated. The Surveyor has clearly opined pursuing his view on the difference between these two words that this was not a case of ''explosion''. Hence, the claim was not covered under the scope of the policy. After going through the Surveyor''s report as well as the definition of words ''explosion and ''implosion'', we are clearly of the view that this was not a case of explosion -internal or external, and also not a case of fire explosion anyway, hence was not covered under the Terms and Conditions of policy as incorporated in Section 1(a) or 1(f) of the terms and conditions of the policy.

5. IN view of above, we are not inclined to interfere with the well-reasoned order passed by the State Commission.

6. THIS revision has also no merit. Dismissed. Revision Petition dismissed.

