(2006) 10 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

HARYANA URBAN DEVELOPMENT AUTHORITY — APPELLANT

Vs

BHU PRAKASH VERMA — RESPONDENT

Date of Decision : 05-10-2006

Acts Referred:

Citation : 2006 3 CPR 355 : 2007 1 CLT 365 : 2007 1 CPJ 32

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Judgement

1. -APPELLANT was the complainant before the State Commission, where he had filed a complaint alleging deficiency in service on the part of the respondent.

2. VERY briefly the facts of the case are that the complainant had a unit manufacturing dry fish manure and salt manure which was insured with the respondent Insurance Company for Rs. 15,00,000. There was a fire episode on 15. 2. 1997 causing loss of his goods, for which the matter was reported to the fire brigade which came and extinguished the fire. A report was obtained. The matter was also reported to the Police as also to the respondent. The respondent appointed a surveyor who while assessing the loss at Rs. 44,310 yet made observations against the appellant/complainant with regard to the factum of fire as also the claim being exaggerated for which he also relied upon the report of the Circle Inspector of the Police. Based on these grounds the claim was repudiated. It is in such a situation that a complaint was filed before the State Commission, who after hearing the parties dismissed the complaint, hence this appeal before us. We heard the learned Counsel for the parties at some length and perused the material on record. We have very carefully gone through the report of the Surveyor. It was true that he made observations to the fact that no fire marks were seen on the large vacant areas and there were no mark of chard residue manure, etc. But if we see the reports in toto, we have no difficulty in arriving at the conclusion that the episode of fire has not been completely denied. We are also supported by the fact that the surveyor has gone on to assess net loss at Rs. 46,810 based on damage to furniture, salt value and fish manure and after catering for the excess clause at Rs. 2,500 has assessed the

claim at Rs. 44,310. We have also seen the letter of repudiation which is based on two issues. Firstly, that the claim is exaggerated and secondly, it goes on to add that it is a "false claim through fraudulent means to obtain benefit from the Policy!"

Based on material on record and especially after going through the report of the surveyor, report of the fire brigage and also report of the Circle Inspector on which heavy reliance has been placed by the Surveyor as also the Insurance Company, we find that it could at best be a case of exaggerated claim but certainly not a false claim. The Circle Inspector has been categorical in stating that the claim is ''inflated''. That will not make this a case of fraudulent claim, enabling the respondent to repudiate the claim. In view of above, we are unable to sustain the order of the State Commission which is set side and the respondent Insurance Company is directed to pay the appellant/complainant an amount of Rs. 44,310 as assessed by the surveyor along with interest @ 9% p. a. from the date of filing of complaint till the date of payment along with cost of Rs. 2,500.

3. ALL the above payments shall be made within 6 weeks from the date of receipt of this order, failing which the appellant shall be at liberty to proceed against the respondent under Sections 25/27 of the Consumer Protection Act, 1986. The appeal stands disposed of in above terms. Appeal disposed of.