(2004) 08 NCDRC CK 0035

In the National Consumer Disputes Redressal Commission

H.S. GILL APPELLANT

Vs

UNITED INDIA INSURANCE COMPANY Limited RESPONDENT

Date of Decision : 19-08-2004

Acts Referred:

Citation : 2004 3 CPJ 616

Hon'ble Judges : K.K.Srivastava , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Final Decision : Appeal partly allowed

Judgement

1. FEELING aggrieved against judgment and order dated 5.3.2004 deciding Complaint Case No. 226 of 2003 by the District Consumer Disputes Redressal Forum-I, U.T., Chandigarh (for short hereinafter referred to as the District Forum), this appeal has been filed by the complainant Shri H.S. Gill resident of House No. 2012, Sector 45-C, Chandigarh. The appeal was contested on behalf of the respondent by Shri Vinod Chaudhri, Advocate who appeared for the respondents.

2. IN this appeal, the sole point submitted by the learned Counsel for the appellant is regarding the date from which the interest awarded on the amount of Rs. 1,85,000/- is not correctly determined by the District Forum as the same being 17.2.2004, wholly arbitrary and having no nexus with the facts and cause of action which arose to the appellant in this case. The District Forum allowed the complaint and held that the appellant be paid a sum equivalent to 75% of Rs. 1,85,000/-, which was worked out as Rs. 1,38,750/- as non-standard claim under the policy of insurance by the respondents with interest @ 7% per annum from 17.2.2004. It was held that the date of 17.2.2004 was fixed after giving margin of three months for processing the claim from the report of the Loss Assessor, which was dated 17.11.2003.

The respondents did not challenge the impugned judgment and order, which has attained finality vis-a-vis the respondents. It is relevant to note that the theft of the vehicle Tata Sumo bearing registration No. CH-01-T-4109, which was insured by the respondent-United India Insurance Company Limited (for short herienafter referred to as the Insurance Company) vide Cover Note No. 288232 for the period from 21.5.2000 to 20.5.2001 for Rs. 2,00,000/-, took place on 28.7.2000. A claim was filed under the policy of insurance with the respondent-Insurance Company, which was rejected on 6.3.2002 on the ground that the vehicle in question i.e., Tata Sumo, which was registered as a private vehicle was being driven as a taxi, which amounted to violation of terms and conditions of the policy of insurance. Apart from it, the claim was declined on the ground that the driver of the aforesaid vehicle did not possess a proper and effective driving licence to drive Tata Sumo. The respondent-Insurance Company also took a plea that it was not obliged to settle the claim on non-standard basis.

3. THE learned Counsel for the appellant submitted that after rejection of the claim was communicated to the appellant, he filed the complaint before the District Forum on 27.1.2003. He further submitted that the report of the Surveyor was submitted before the District Forum during the pendency of the complaint in November 2003 reporting that the market value of the insured vehicle i.e. Tata Sumo was Rs. 1,85,000/-. THE learned Counsel for the appellant contended that he has not challenged the market value of the Tata Sumo being Rs. 1,85,000/-. The grievance of the appellant, the learned Counsel submitted, was that the District Forum ought to have awarded interest on the amount found payable to the complainant i.e., 75% of Rs. 1,85,000/- calculated as Rs. 1,38,750/- from 6.3.2002 when the claim was rejected.

4. HAVING carefully considered the submissions made before us and after perusing the impugned judgment and order, we find considerable merit in the submissions made by the learned Counsel for the appellant. The District Forum clearly committed an error in treating the date of the report of the Surveyor assessing the market value of the vehicle insured i.e., Tata Sumo in report submitted on 17.11.2003 i.e., during the pendency of the complaint case being Rs. 1,85,000/- and after allowing margin of three months for processing the claim w.e.f. that date. It was the duty of the Surveyor to assess the market value in his report and the Insurance Company was to consider the same in the event of assessing the amount of compensation. The cause of action arose to the appellant on 6.3.2002 when his claim filed under the policy of insurance against the theft of the vehicle insured was repudiated. It shall be the date relevant for payment of the amount found due to be paid as non-standard claim. The appellant was thus deprived of the amount as aforesaid, which was payable to him on 6.3.2002 and interest is to be awarded w.e.f. that date when he was deprived of the payment of the amount of Rs. 1,38,750/-. Resultantly, the appeal is party allowed and the impugned judgment and order is modified to the extent that the appellant shall be entitled to get interest @ 7% per annum from the due date i.e., 6.3.2002 till payment, which shall be made within one month from the receipt of certified copy of this order. The parties are left to bear their own costs of appeal. Copies of the order be sent to the parties free of charge. Appeal partly allowed.