(2015) 03 NCDRC CK 0072

In the National Consumer Disputes Redressal Commission

Case No : NO 1670 of 2014

JASPAL KAUR & ANR. APPELLANT

Vs

NEW INDIA ASSURANCE COMPANY LIMITED RESPONDENT

Date of Decision : 17-03-2015

Acts Referred:

Constitution of India, Article 226 - Power of High Courts to Issue certain writs

Citation : 2015 2 CPJ 727

Hon'ble Judges : J.M. Malik, S.M. Kantikar

Advocate : R.K. Bhawnani, Mohd. Anis UR Rehman

Judgement

1. Counsel for the petitioners present. Arguments heard. The truck was stolen on 27.10.2008. FIR was lodged on 02.11.2008. It is explained that as a matter of fact the police was informed immediately on 27.10.2008, itself. Police desired that the owner should come and lodge the report. The owner of the truck resides in Chhatisgarh. He came and the report was lodged after the expiry of six days on 02.11.2008. Thereafter, according to the petitioner, the report was lodged with the New India Assurance Company on telephone but they desired that the copy of the FIR should be filed. Ultimately, written report was lodged with the Insurance Company on 07.11.2008 , i.e. after 11 days when the vehicle was stolen.

2. We have heard the counsel for the petitioners. He submits that he is claiming compensation only on non-standard basis. He has also invited our attention towards the IRDA circular which mentions that the delay can be condoned and has also invited our attention towards the following para of the circular:- "Circulars on Late Insurance Claim

The current contractual obligation imposing the condition that the claims shall be intimated to the insurer with prescribed documents within a specified number of days is necessary for insurers for effecting various post claim activities like investigation, loss assessment, provisioning, claim settlement, etc. However, this condition should not prevent settlement of genuine claims, particularly when there is delay in intimation or in submission of documents due to unavoidable circumstances".

3. We are of the considered view that the order passed by the State Commission cannot be faulted. The Apex Court in " Oriental Insurance Co. Ltd. Vs. Parvesh Chander Chadha - Civil Appeal No.6739/2010 decided on 17.8.2010, was pleased to hold :- "Admittedly the respondent had not informed the appellant about the alleged theft of the insured vehicle till he sent letter dated 22.5.1995 to the Branch Manager. In the complaint filed by him, the respondent did not give any explanation for this unusual delay in informing the appellant about the incident which gave rise to cause for claiming compensation. Before the District Forum, the respondent did state that he had given copy of the first information report to Rajender Singh Pawar through whom he had insured the car and untraced report prepared by police on 19.9.1995 was given to the said Shri Rajender Singh Pawar, but his explanation was worthless because in terms of the policy, the respondent was required to inform the appellant about the theft of the insured vehicle. It is difficult, if not impossible, to fathom any reason why the respondent, who is said to have lodged First Information Report on 20.1.1995 about the theft of car did not inform the insurance company about the incident. In terms of the policy issued by the appellant, the respondent was duty bound to inform it about the theft of the vehicle immediately after the incident. On account of delayed intimation, the appellant was deprived of its legitimate right to get an inquiry conducted into the alleged theft of the vehicle and make an endeavour to recover the same. Unfortunately, all the consumer foras omitted to consider this grave lapse on the part of the respondent and directed the appellant to settle his claim on non-standard basis. In our view, the appellant cannot be saddled with the liability to pay compensation to the respondent despite the fact that he had not complied with the terms of the policy ."

4. Again this Commission in the case of "New India Assurance Co. Ltd. Vs. Trilochan Jane" in First Appeal No. 321 of 2005 decided on 09.12.2009 took the same view and discussed the word immediately:- "As per Strouds Judicial Dictionary, Fifth Edition, word immediately is defined as under: -

(1). The word immediately, although in strictness it excludes all mean times, yet to make good the deeds and intents of parties it shall be construed such convenient time as is reasonable requisite for doing the thing.

As per Blacks Law Dictionary, Sixth Edition, word immediately means: -

Immediately. Without interval of time, without delay, straightway, or without any delay or lapse of time. When used in contract is usually construed to mean within a reasonable time having due regard to the nature of the circumstances of the case, although strictly, it means, not deferred by any period of time. The words immediately and forthwith have generally the same meaning. They are stronger than the expression within a reasonable time and imply prompt, vigorous action without any delay."

Halsbury''s Laws of England, 4 th Ed. Vol. 23, para 1618, p.1178 where it meant immediately is to be construed as meaning with all reasonable speed, considering the circumstances of the case.

The word immediately is stronger than the expression within a reasonable time. It was held that compensation on non-standard basis cdannot be granted. The case of "National Insurance Company Limited v. Nitin Khandelwal " reported in (2008) 11 SCC 256 was also discussed.

5. This Commission also took the same view in the case "Rahul Tanwar Versus Oriental Insurance Co. Ltd." Revision Petition No. 2951 of 2011 on 09.11.2012.

6. This Commission took the same view in Mohammadali Liyakatali Pathan versus Reliance General Insurance Co. Ltd." in Revision Petition No. 3183 of 2011 decided on 12.07.2012 by the Bench headed by Hon''ble Justice Ashok Bhan.

7. This Bench also decided another case titled as "Tata Motors Finance Limited Versus Ramesh Kumar & Anr." , Revision Petition No. 781 of 2014 dated 27.10.2014 to the same effect.

8. The Revision Petition is without merit and the same is, therefore, dismissed.

