(2004) 10 NCDRC CK 0093

In the National Consumer Disputes Redressal Commission

KAMLA MIAURIA APPELLANT

Vs

ORIENTAL INSURANCE Company RESPONDENT

Date of Decision : 21-10-2004

Acts Referred:

Citation : 2005 2 CPJ 153

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra , Rumnita Mittal J.

Final Decision : Appeal partly allowed

Judgement

1. GRIEVANCE of the appellant against the impugned order dated 5.6.1998 passed by the District Forum is with regard to the amount of the insurance claim awarded by the District Forum. Admittedly appellant purchased a new vehicle on 19.11.1991 for Rs. 3,91,433.76 and got it insured with the respondent for the said amount for the period upto 21.11.1992. The policy was again renewed upto 11.11.1993 but for the same amount and without reducing the depreciated value of the car. The car was stolen on 13.11.1993 i.e., almost after two years of its purchase, report for which was also made. The appellant preferred the claim with the respondent for the insured amount i.e., Rs. 3,91,433.76 but his claim was assessed by the respondent at Rs. 2,60,000/- through by the second Surveyor which was duly paid to the appellant.

2. FEELING dissatisfied with the said amount the appellant filed the instant complaint with the District Forum which was dismissed against respondent No. 1 but respondent No. 2, through whom the car was financed by the complainant, was ordered to pay Rs. 5,000/- as compensation on account of deficiency in service. On the face of it the second insurance policy does not reflect the market value of the car at the time of its insurance. The explanation of the complainant in this regard is that he had given a blank cheque to the agent of respondent No. 1 who himself filled up the value of the car as its original value i.e., Rs. 3,91,433.76. This itself shows not only negligence on the part of the complainant but also his unscrupulous behaviour or conduct in claiming the same amount which was filled up by the insurance agent though after one year the value of the

car must have depreciated by 10% to 20%.

Merely because the official of the respondent Insurance Company filled up the amount of original price on renewal as insured amount though the vehicle became more than a year old does not entitle the insured to claim the same amount in case of total loss as it is the market value of the vehicle which is insurable as well as claimable. However, the value assessed by the second Surveyor at Rs. 2,60,000/- was not correctly assessed as a new vehicle was purchased on 15.11.1991 for Rs. 3,91,433/- and it was stolen after two years and after depreciating the value @ 20% the market value will come to Rs. 3,13,146/-. We, therefore, partly allow the appeal by modifying the amount of compensation from Rs. 2,60,000/- to Rs. 3,13,146/-. Rest of the order passed by the District Forum is maintained. The amount awarded shall be payable by the respondent within one month.

3. A copy of this order, as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to record room. The FDR, if any deposited by the appellant be returned forthwith after completing necessary formalities. Appeal partly allowed.