
(2005) 11 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

Kedar Nath Sethi

APPELLANT

Vs

NEW INDIA ASSURANCE COMPANY

RESPONDENT

Date of Decision : 16-11-2005

Acts Referred:

Citation : 2006 1 CPJ 417

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

Final Decision : Appeal dismissed

Judgement

1. THIS appeal had been directed by the complainant against order dated 23.8.2005 passed by District Consumer Disputes Redressal Forum-I, U.T. Chandigarh, whereby his complaint was dismissed.

2. BRIEFLY stated the facts are that the appellant owned car No. CH01J-3318 which was insured vide policy No. 31/00/1053 with New India Assurance company Ltd. SCO-58, Sector-26, Chandigarh. The said vehicle met with an accident. The Insurance Company got the vehicle inspected from different Surveyors for the purpose of granting of compensation. The claim was lodged with respondents after completion of formalities but later on he was informed that the file relating to his claim had been misplaced. It was next averred that the appellant met the Regional Manager of New India Assurance Company and handed over all the documents and vide letter dated 23.7.2004 he was informed that the claim file had been destroyed as per norms of the company. Alleging deficiency in service on the part of respondents, appellant filed complaint and claimed an amount of Rs. 20,000 with interest as compensation.

Respondents contested the claim and filed written reply. They stated that after investigation, the file was closed as the appellant did not pursue the matter with the Insurance Company within 12 months from closing of the file and, as such, as per terms and conditions, he had lost his right to recover the compensation. They next stated that the appellant neither produced any record relating to the validity of the insurance policy nor the proof of accident of the vehicle and in the absence of any record, claim was not given. They also denied other allegations of

the appellant.

3. PARTIES adduced evidence by way of affidavits. After hearing Counsel for the parties and perusing the record, District Forum-I dismissed the complaint with no order as to costs.

4. AGGRIEVED by the said order, complainant has filed the present appeal. We have heard Counsel for the appellant and carefully gone through the file. The Insurance Company had not been correctly sued. The name should have been New India Assurance Company Limited instead of New India Insurance Company Limited. It is an admitted fact that the appellant had filed writ petition in the Hon"ble Punjab & Haryana High Court bearing No. 12871/96. Counsel for the appellant admitted at the Bar that the present claim for compensation was also included in the writ petition. He next stated that later on, that claim was withdrawn. However, no document has been placed on record to show that the claim was withdrawn by reserving the right to file complaint before the District Consumer Forum. Even, copy of the writ petition has not been placed on file. Therefore, cause of action had arisen to the appellant in the year 1996. The present complaint was filed in the year 2005, beyond the period of two years. Section-24A of the Consumer Protection Act, 1986 states that if a complaint is filed beyond the period of two years from the date when cause of action has arisen, then such complaint would not be admitted. Sub-section 2 of the said section further states that the complaint may be entertained after the period of two years if the complainant/appellant satisfies that he had sufficient cause in not filing complaint within such period. No reason had been given as to why complaint was not filed within two years from the date of cause of action and as to why the writ petition was filed in the Hon"ble High Court and further why the writ was withdrawn and then complaint was filed in the District Forum. It is also not stated as to when the writ was withdrawn. Therefore, delay in filing the complaint has not been explained at all and there is no sufficient reason for condoning said delay.

5. COUNSEL for appellant contended that the appellant had continued cause of action as his claim was not denied. If his claim had not been denied, then why he preferred writ petition in the Hon"ble High Court to claim the amount of compensation. This only shows that the claim was denied and for this reason, he was compelled to file writ petition in the Hon"ble High Court. Thus, the complaint is clearly time barred and has been rightly dismissed by the District Forum. Consequently, appeal is dismissed in limine. Copies of the order be communicated to the parties, free of charge. Appeal dismissed.