

(2010) 09 NCDRC CK 0035

In the National Consumer Disputes Redressal Commission

Kissan Tractor

APPELLANT

Vs

ORIENTAL INSURANCE COMPANY LIMITED

RESPONDENT

Date of Decision : 01-09-2010

Acts Referred:

Citation : 2010 0 NCDRC 152 : 2010 4 CPJ 53

Hon'ble Judges : Anupam Dasgupta J.

Advocate : K.R.Pamei , P.K.Seth

Judgement

1. BY order dated 25.08.2010, the revision petition was dismissed for the reasons to be recorded separately. The reasons are as under:- 2.(i) This revision petition is directed against the order dated 29.10.2004 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (in short, the State Commission) in appeal no. 765 of 2004. BY the said order, the State Commission dismissed the appeal filed by the complainant / appellant / petitioner against the order dated 11.05.2004 passed by the District Consumer Disputes Redressal Forum, Amritsar (in short, the District Forum). BY the said order, the District Forum had dismissed the complaint.

(ii) The facts of the case have been narrated in detail in the orders of both the Fora below and need not be repeated here. Suffice it to mention that the petitioner, a partnership firm, based at Batala in District Amritsar dealt in agricultural tractors manufactured by Mahindra and Mahindra Company. The tractors were delivered from the stockyard of the manufacturer at Dosanjkhurd, District Jalandhar. The petitioner would take delivery of the tractors at the said yard and have the tractors driven by road to its own stockyard at Batala. During the relevant period, the petitioner obtained a motor vehicle insurance policy for Rs.2 crore for the period 16.05.2000 15.05.2001. In May 2000, the petitioner transported 80 tractors from Dosanjkhurd to Batala, out of which one tractor was allegedly stolen. The peril of theft of the tractors being covered by the insurance policy, the petitioner filed an indemnification claim with the respondent. The respondent insurance company appointed two surveyors /

investigators in succession to investigate and assess the loss. The reports submitted by these surveyors were favourable to the petitioner. The respondent, however, repudiated the claim on the ground that the tractor in question was actually dispatched from the stockyard at Dosanjkhurd on 13.05.2000 which was well before the commencement of the insurance cover, i.e., 16.05.2000. Aggrieved by this decision, the petitioner filed a complaint before the District Forum. After considering the pleadings, evidence and documents brought on record, the District Forum dismissed the complaint by its order dated 11.05.2004. It was against this order, the petitioner went up in appeal before the State Commission, which too dismissed the appeal of the petitioner. Hence, this revision petition.

2. WE have heard Mr. K. R. Pamei and Mr. P.K. Seth, learned counsel for the petitioner and the respondent respectively and considered the documents brought on record. It may be noted at the outset that both the Fora below have considered in detail the various contentions of the complainant in support of its insurance claim and the oral evidence of various persons concerned, as recorded by the surveyors. On the basis of analysis and appreciation of the facts of the case, both the Fora below have come to the concurrent finding that the complainant was unable to establish that the tractor in question was stolen, while on its journey from Dosanjkhurd to Batala, on 23.05.2000 and not on 13.05.2000. This is a finding of fact with which we have no reason whatsoever to differ. Learned counsel for the petitioner has sought impress upon us the statement of one of the employees of the manufacturer at the stockyard to point out the reasons for the difference between the date of issuance of the delivery-cum-dispatch challan and the actual date of transport of the tractor from out of the stockyard. However, the State Commission has, inter alia, considered this point also in arriving at its conclusion. The State Commission has, in addition, gone into the discrepancies in the reports of the investigators regarding the date of dispatch / theft of the tractor. The State Commission has further examined the statements demonstrating discrepancies even in the date of theft mentioned in FIR which was registered at Police Station, Subhanpur, District Kapurthala. It has been also subsequently mentioned in the impugned order that out of the batch of 80 tractors, 79 tractors were actually dispatched on 13.05.2000; only the tractor, in question, was dispatched, according to the petitioner on 23.05.2000 for some technical / commercial reasons, without explaining as to what the said reasons were. In view of the detailed discussion in the order of the State Commission which only affirms the detailed discussion and conclusion of the District Forum, there is no reason for this Commission to interfere with the impugned order on any of the grounds, namely, jurisdictional error, illegality or material irregularity provided for in section 24(a) of the Consumer Protection Act, 1986. Hence, the above-mentioned order.