(2003) 07 NCDRC CK 0117

In the National Consumer Disputes Redressal Commission

KRISHNA NAND JOSHI — APPELLANT

Vs

DIVISIONAL MANAGER, ORIENTAL INSURANCE CO. — RESPONDENT

Date of Decision : 18-07-2003

Acts Referred:

Citation : 2003 3 CPJ 129 : 2003 3 CPR 2

Hon'ble Judges : D.P.Wadhwa , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. PETITIONER was the complainant before the District Forum. Briefly stated the facts of the case are that the petitioner had obtained an insurance cover from the respondents for his scooter and Personal Accident, later for Rs. 40,000/-, for the period 3.3.1991 to 2.3.1992. Scooter met with an accident on 10.2.1992 causing damage to the scooter and injuries to the petitioner. A claim was filed on 23.1.1994. While the claimant had claimed full Rs. 40,000/- under Accident Insurance cover, claim for damage/repairs to scooter was for Rs. 2,436.70. While settling the claim respondents did not give any money under the ''Accident Insurances'' on the ground that no proof of disability has been produced/shown/ furnished to the respondents. It settled the claim for repairs to scooter at Rs. 1,343/-. It is in these circumstances that a complaint was filed before the District Forum alleging deficiency in service, who after hearing the parties allowed the complaint in part, i.e., Rs. 1,609/- for scooter repairs/damage and Rs. 16,000/- under Accident Insurance as, based on material on record, disability was only 40% hence 40% of the insured amount was granted. An appeal filed by the petitioner before the State Commission was only partly allowed, i.e., to the extent that damages to the scooter was allowed as claimed, i.e., Rs. 2,436.70. Cost of Rs. 1,000/- was also awarded.

2. ON the date fixed for final hearing, i.e., on 17th July, 2003, request for adjournment made on behalf of the Counsel for the respondent which was declined as the petitioner, allegedly a disabled man, had come from outstation. We heard the petitioner who pleaded in person and perused the material brought

on record as also the reply filed by the respondent. We do not have even a single paper on record to support the contention of the petitioner that he was rendered disabled by the accident. Before us the petitioner repeatedly drew our attention to condition 4 of Special Condition of this Policy which reads as under : "If such injury shall as a direct consequence thereof, immediately, permanently, totally and absolutely, disable the insured person from engaging in any employment or occupation of any description whatsoever, then a lump sum equal to hundered percent (100%) of the ''Capital Sum Insured'' stated in the Schedule hereto applicable to such insured person."

It needs no special knowledge to interpret the condition. 100% of the insurance amount is to be given in case of an accident resulting in permanent, totally and absolutely disablement.

3. WE see no material or proof on record which substantiates the above conditions. District Forum allowed Rs. 16,000/- based on an unproved certificate stating 40% disability. After perusal of material on record and the terms of the policy, we find no ground to interfere in the well reasoned order of the District Forum and affirmed by the State Commission with slight modification. No jurisdictional error has been shown, calling for exercising our jurisdiction under Section 21(b) of the Act. This Revision Petition lacks merit and is dismissed. No order as to cost. Revision Petition dismissed.

