(1999) 05 NCDRC CK 0102

In the National Consumer Disputes Redressal Commission

KUMAR AGENCY — APPELLANT

Vs

Oriental Insurance Co. Ltd — RESPONDENT

Date of Decision : 04-05-1999

Acts Referred:

Citation : 1999 3 CPJ 49

Hon'ble Judges : A.A.Halbe , Rajyalakshmi Rao J.

Final Decision : Appeal allowed

Judgement

1. THE important question which has been raised in this appeal is regarding the interpretation of word, "Cash in Transit", in the Multi-Perils Policy for L.P. Gas Dealers issued by the respondent Insurance Co. THE appellant/complainant had taken out the Multi-Perils Policy for L.P. Gas dealers for the period from 24.9.1995 to 23.9.1996. Various clauses were inserted in the policy and one of them was Section III(A)-"Cash in Transit" which is as follows : "THE Company will indemnify the insured in respect of loss by accident or misfortune whilst the insured''s money in the hands of the insured or the partner/directors/ employees of the insured is in transit between any two places within a radius of 15 Kms. from the insured''s premises as stated in the Schedule."

2. UNDISPUTEDLY the shop premises of the complainant were insured. The shop was meant for storing and dealing in gas cylinders. However, on 19.11.1995, the appellant/complainant wanted to purchase a Demand Draft in the name of H.P. Ltd. (Hindustan Petroleum Corporation Ltd.), but as it was Sunday, the complainant after closure of his business took the cash of Rs. 47,500/ - in a plastic bag and kept in the cupboard of his house during the period between 19.11.1995 and 20.11.1995 and there was burglary in the house of the complainant and the cash worth Rs. 54,500/- and silverwares of Rs. 1,000/- were stolen. The appellant/complainant filed the complaint with the police inter alia inserting the incident and preferred the claim against the respondent-Oriental Insurance Co., which repudiated the claim on the ground that the cash was not in transit, but was locked in the house of the complainant which was not

the insured premises. The learned Advocate for the appellant/ complainant has contended that the word "Cash in Transit" should be interpreted liberally so long as it is shown that the cash left in the insured''s premises and that during its transit to the Bank for being converted into the Demand Draft, it remains cash in transit. It is not that throughout the process, the cash must have been moved alongwith the custodian or the employee.

An attempt is made to show that the word, "Cash in Transit" may include such situation as would necessitate the carrier to deposit in a place or a cupboard when it is not physically possible to carry the cash from one end of the insured''s premises to the other end where the cash is to be given or converted into the Demand Draft.

3. IF two places are situated at a distance of 15 Kms. from one end to another, if the road connecting these two places is intercepted by bridges and if there is a flood, one time journey will not be possible. The carrier shall have to stop at a particular place and then proceed after the floods are over. In such a situation, if the carrier deposits the money for safe custody either at the place of his lodgment, we believe that the cash carried is cash in transit. The cash is intended to be deposited with the Bank and there is no other intention whatsoever to keep the cash in the cupboard except our necessity. We may examine another example. Suppose if the Bank transfers its cash in chest box from one branch to the main office and if the cash box cannot be carried out on account of the intervention of some natural calamity and if this cash box is deposited at some place, it cannot be stated that this cash box was not in transit.

4. WE, therefore, believe that the words "Cash in Transit" cannot be construed narrowly as only to include that cash which is continuously travelling alongwith the carrier. It is the main intention of the party as to how the cash is to be dealt with. Here it is manifest that the cash was being carried out from the shop to the house of the complainant because no Demand Draft could be obtained being a Sunday. However, the nature of cash being in transit is not defeated because the carrier had the intention of depositing the same with the Bank for obtaining the demand draft. Such construction is consistent with the wording indicated above. The cash is covered and insured for over a distance of 15 Kms. of road, between two places one of them being the insured''s premises. WE, therefore, believe that the submission of the appellant/complainant that the repudiation is not proper on the simplicit interpretation of words "Cash in Transit", the intention behind cash in transit has to be given effect. WE, therefore, uphold the claim of the complainant. It is not in dispute that Rs. 47,500/- were stolen. In 1997 CCJ page 1214 in the case of National Insurance Co. Ltd v. Tikamchand Hanumandas, the WEst Bengal State Commission has upheld the story of the articles being snatched as event of misfortune. In this case also we find that there was of burglary in the house of the complainant, for which he was not responsible. No other clause has been pointed out limiting the claim of the complainant. WE therefore, find that he amount of Rs. 47,500/- must be paid by the respondent-

Insurance Co. WE, therefore, pass the following order : ORDER "The appeal is allowed. The respondent- Insurance Co. do pay Rs. 47,500/- with 15% interest thereon from 1.4.1996 till actual payment plus cost of Rs. 1,000/- to the appellant/complainant."

Appeal allowed.

