(2013) 04 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Lakshmi Narasimha Timber Depot APPELLANT

Vs

UNITED INDIA INSURANCE CO. LTD RESPONDENT

Date of Decision : 02-04-2013

Acts Referred:

Citation : 2013 0 NCDRC 216 : 2013 2 CPJ 281

Hon'ble Judges : J.M.MALIK , B.C.Gupta J.

Advocate : I.V.Siddhivardhana , V.SAMBASIVA RAO

Judgement

1. THIS appeal has been filed under section 19 of the Consumer Protection Act, 1986 against the order dated 23.01.2009 passed by the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short ''the State Commission '') in CD No. 26 / 2006 according to which the complaint was partly allowed against the respondent no. 1 United India Insurance Company Limited (for short ''the Insurance Company ''), but dismissed against respondent no. 2, Andhra Bank. The insurance company was directed to pay a compensation of Rs.1,85,000/ - with interest @9% p.a. from the date of the complaint till realization with costs of Rs.5,000/ -.

2. BRIEFLY stated the facts of the case are that the complainants / appellants are a timber depot and a saw mill and the proprietor of both is Shri B. Poornachandra Rao. They obtained insurance coverage for timber and saw mill from respondent no. 1 insurance company under standard fire and special perils policy '', bearing number 150904/11/03/00002 for a sum of Rs.24,76,000/ -, covering the stocks of timber for a period of one year, i.e., from 29.05.2003 to 28.05.2004. Another fire insurance policy bearing number 150904/11/03/00120 for a sum of Rs.1,50,000/ - covering insurance for tiled shed and saw mill machinery for a period of one year, i.e., from 17.06.2003 to 16.06.2004 was also taken. The premium of the policies was paid by respondent no. 2, Bank. The case of the complainant is that the Saw Mill was burnt due to electric short circuit on 12.05.2004 at about 3.00 A.M. The complainants lodged a report to the local police which registered FIR No. 105/2004. The Insurance Company was also

informed which appointed Mr. K. Shiva Prasad as surveyor. As stated by the complainant, the surveyor asked them to furnish certain documents but since the proprietor was suffering from fever, he requested time to give the documents. The surveyor got the test fire conducted and after making volumetric analysis estimated the loss to be Rs.12,60,000/ - . However, despite the report of the surveyor, the Insurance Company refused to pay claim to them. They appointed an investigator, Mr. M.S. Prasad, who gave its own report. The local police also gave report on 28.05.2004 stating that no foul play had been detected after investigation. The Station Fire Officer also stated that the fire was due to electric short circuit. The complaint then filed a consumer complaint before the State Commission claiming a compensation of Rs.23,95,071/ - with interest and another compensation of Rs.1 lakh and costs of Rs.25,000/ -. However, the State Commission, taking into account the evidence submitted before them, allowed compensation of Rs.1,50,000/ - towards loss of stocks and Rs.35,000/ - towards machinery. In this way, the State Commission awarded a compensation of Rs.1,85,000/ - with interest @9% p.a. from the date of complaint till realization together with costs of Rs.5,000/ -. It is against this order that the present appeal is filed before us. The main ground taken by the appellant in the appeal as well as in the arguments submitted before us says that the Insurance Company should have placed reliance on the report of their own surveyor. The State Commission have also not given any cogent reason for disbelieving the report of the surveyor. The learned counsel for the appellant also invited our attention to the report of the local police saying that the police did not detect any foul play in the incident and treated the case as an accident one. Further, there was no reason for the insurance company to have appointed an investigator. The Insurance Company should have, at least, made payment as per the report of the surveyor.

3. WE have examined the material on record and given thoughtful consideration to the arguments advanced before us. The facts of the case and the reports given by the surveyor and the investigator make an interesting reading. It is very clear that the claim of the complainant is not substantiated by any authentic documents or accounts. It has been stated that on four earlier occasions, the father of the complainant had reported fire incident in the timber depots run by him at Giddalur (Prakasham District), Agirpally (Krishna district), Mellacheruvu (Nalgonda district), and Piduguralla (Guntur District). In all these cases, the insurance claims were submitted to the insurance company. It has come on record that all these claims were settled by the insurance company. The learned counsel for the insurance company was repeatedly asked about the exact outcome of these claims, whether the insurance company had paid any money to the insurer or not? In spite of giving chance to obtain opinion and come prepared on the next date, the learned counsel for the insurance company could not provide any details about the four claims stated to have been settled already.

4. MOREOVER , the summary of the report submitted by the investigator runs as follows: - "1. The cause of fire was not due to electric origin. No documentary

evidence was produced by claimant obtaining from electrical department. 2. The alleged stock burned was of the unaccounted business (against law) run by the claimant which shall not be indemnified by the policy issued. 3. The material burned was not teak wood sizes but waste throw away log pieces. Based on the remained ash of such stuff loss was assessed. 4. Arson was not proved in previous fire claims connected with claimant family members due to inconsistent policy enquiry, based on which it shall not be concluded that the present claim is genuine. 5. If any concerned object this, the insurer may inform all the previous cases details to higher police authorities for proper enquiry. "

The investigator has opined that it was technically baseless to say that the cause of fire was due to electric short circuit. Moreover, the insurer had not become an income -tax assesse and had not got his accounts audited for many years.

5. THE surveyor had also stated in his conclusion that the accounts were not properly maintained by the insured. There was no material evidence available to establish arson.

6. FROM the facts stated above, it becomes abundantly clear that the claims submitted by the appellant are far from being genuine. It is also made out that the complainant and his father are adept in submitting claims to the insurance company on one pretext or the other, and they might be getting claims paid in collusion with the officials of the insurance company. In the instant case, it is surprising to note that the Insurance Company has not taken the trouble to file an appeal against the order passed by the State Commission. This is another instance of the fact that insurance company is working in cahoots with the complainant. We find that the order of the State Commission has attained finality. We cannot interfere in it. However, the order passed by the State Commission on its face is perverse and illegal. While maintaining the order of State Commission, we dismiss the appeal with costs and compensation in the same amount which is awarded to him by State Commission meaning thereby nobody will get anything from any party. Further, looking at the peculiar facts and circumstances of the case and in order to watch public interest at large, we find it expedient that this whole matter should be subjected to a thorough probe at very senior levels in the Company and appropriate follow -up action should be taken as a result of the said probe. The Chairman -cum -Managing Director, United India Insurance Co. Ltd., Registered and Head Office, 24, Whites Road, Chennai - 600014, is hereby directed to get a thorough probe conducted into the whole affair, which should include the four claims mentioned in the present order and then take the requisite action as per rules / instructions. The outcome of such an investigation and the action taken should also be reported to this Commission, preferably within a period of three months from the date of pronouncement of this order.

