

**(1991) 08 NCDRC CK 0007**

**In the National Consumer Disputes Redressal Commission**

M Salhi

APPELLANT

Vs

UNITED INDIA INSURANCE COMPANY LTD

RESPONDENT

**Date of Decision :** 05-08-1991

**Acts Referred:**

**Citation :** 1991 2 CPJ 697 : 1991 2 CPR 362

**Hon'ble Judges :** V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

**Judgement**

1.THE complainant owned a Fishing vessel MFV "Amunathullah". He had insured the said vessel with the respondent -United India Insurance Company Ltd., for a total sum of Rs. 4,65,000/- as per a Marine Insurance Policy dated April 12, 1984. THE complaint's vessel is said to have capsized and sunk off the Honnavar (North Kanara) Coast on May 26, 1984. Immediately thereafter the complainant forwarded a claim to the insurance company requesting to be paid the full insured value of the vessel in view of its having sunk and thereby become a total loss. THE respondent insurance company repudiated the claim by registered letter dated September 24, 1986. THEREafter this complaint petition has been preferred before this Commission on November 14,1990.

2. IN our opinion this petition has to fail on the short ground that it is clearly barred by limitation. Under Article 44B of the Limitation Act any action for enforcement of a claim for recovery from the insurer of an amount due on a policy has to be instituted within three years from the date of the occurrence causing loss or where the claim on the policy is denied either partly or wholly, the date of such denial. In the present case the loss of the vessel is said to have taken place on May 26,1984. It is seen from the counter -affidavit filed by the respondent that the claim was repudiated by the insurance company by registered letter dated September 24, 1986. When calculated either with reference to the date of the occurrence of the loss or the date of the repudiation of the claim by the insurer, the petition is found to have been filed long after the expiry of the period of three years. Hence it is manifestly barred by limitation. In the light of the foregoing discussion this petition will stand dismissed. No costs.

Petition dismissed.