(1999) 07 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

MALKIAT SINGH APPELLANT

Vs

NEW INDIA ASSURANCE COMPANY LIMITED RESPONDENT

Date of Decision : 21-07-1999

Acts Referred:

Citation : 1999 2 CLT 672 : 2000 1 CPC 77 : 2000 1 CPJ 356

Hon'ble Judges : A.L.Bahri , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal allowed

Judgement

1. THE complaint of Malkiat Singh having been dismissed by District Forum, Hoshiarpur on August 27, 1998, he is in appeal. He is represented by Sh. Kuldeep Raj Kaila, who has also represented him before the District Forum. THE complaint was dismissed by the District Forum on the ground that there was no privity of contract with New India Assurance Company from whom insurance policy was taken by Punjab National Bank. It may be observed that this approach of the District Forum is not sustainable in law.

2. AS per the allegations made in the complaint Malkiat Singh started his poultry business after taking loan from the Punjab National Bank and to cover the risks of the birds, insurance policy was taken by the Punjab National Bank and the birds having died, the claim was preferred before the Insurance Company, which was ultimately repudiated. AS usual different pleas were taken by the Insurance Company, one of them that there was no privity of contract between the Insurance Company and them. Copy of the insurance policy was produced before the District Forum, which indicates the name of the insured as Punjab National Bank account Malkiat Singh son of Ram Singh resident of village Pandori Bhagal Singh. The insurance cover relates to covering risk of birds at the poultry farm of the complainant. The word consumer has been defined under the Consumer Protection Act under Section 2(1)(d) as under : "2(1)(d) : ''Consumer'' means any person who- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys

such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payments, when such services are availed of with the approval of the first mentioned person; Explanation-For the purposes of Sub-clause (i), ''commercial purpose'' does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self employment."

The present is a case of hiring of services and the beneficiary of the hiring of services in his own right would also be a consumer as defined. In view of copy of the insurance policy describing the insured as Punjab National Bank account Malkiat Singh (present complainant), the present complainant being a beneficiary of the contract would be a consumer as defined entitled to file the complaint. For the reasons stated above, this appeal is allowed. The order of the District Forum is set aside and the case is remanded to the District Forum for decision on merits. Parties present are directed to appear before the District Forum on September 6, 1999. Copy of the order alongwith District Forum records be sent there promptly. Appeal allowed.