(1996) 06 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

MANAK SINGH APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD. RESPONDENT

Date of Decision : 13-06-1996

Acts Referred:

Citation : 1996 0 NCDRC 64 : 1996 2 CLT 616 : 1996 2 CPC 183 : 1996 2 CPJ 205 : 1996 2 CPR 205

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA , R.THAMARAJAKSHI J.

Advocate : M.R.CHAWLA , S.K.PAUL

Judgement

1. THIS first appeal is directed against the order passed by Uttar Pradesh State Commission at Lucknow dated 7th of July, 1993 dismissing the complaint by a majority decision.

2. THE complainant filed a complaint before the State Commission alleging that he had purchased the chasis of the truck bearing registration No. UPM 4757 model 1987 for Rs. 2,45,000/- and invested Rs. 1.00 lakh for the manufacturing of body and later on got it insured for Rs. 3.00 lakhs with New India Assurance Company Ltd. for the period 9.9.88 to 8.9.89 comprehensively by paying a premium of Rs. 4,421/-. The complainant paid on 7.4.89 further premium of Rs. 90/- covering ''terrorist "s risk'' from 7.4.89 to 8.9.89. The complainant alleged that he had got the policy renewed in continuation of old policy covering all risks inclusive of terrorists risk for the period 9.9.89 to 8.9.90. Truck No. UPW 4757 loaded with coal was set on fire on 9.8.90 within jurisdiction of Police Station Sidli, Distt. New Bongaigaon (Assam) and an FIR was lodged. The complainant by letter dated 13.8.90 informed the New India Assurance Co. that the said vehicle while proceeding towards Sreerampur was burnt down by suspected Bodo militants near Samthaibari in Bongaigaon District at 6.30 a.m. on 9.8.90 and the driver and the handyman of the vehicle had sustained injuries and have been shifted to Sidli Public Health Centre. The complainant thereafter submitted a claim for total loss of vehicle. The claim was repudiated by the Insurance

Company in the letter dated 24.1.91 on the ground that the damage sustained by the complainant was the result of suspected Bodo militants as mentioned in letter dated 13.8.90 as well as on enquiry and that the policy did not cover risk of terrorists activity. The complainant thereafter filed the complaint before the State Commission. Two main questions arose before the State Commission, namely, (i) as to whether the policy covered terrorist "s risk; and (ii) whether the loss was not due to terrorist "s activity/Bodo militancy and was a malicious act. The majority of the State Commission found that the complainant has not been able to establish that for the subsequent year 9.9.89 to 8.9.90 during which the fire accident occurred his vehicle in question was got insured for the risk of terrorists activities. It held that ordinarily by insuring a vehicle the risk by terrorist activity is not included and that whenever the additional risk is included then some additional premium is to be deposited and only then the Insurance Company issues a written endorsement which is attached to the policy as was done in the recent case for the period 7.4.89 to 8.9.89. It is also found that the reason of the fire accident was due to terrorists'' activity in Assam and the accident took place due to that reason only. The majority of the State Commission dismissed the complaint. In the minority view it is accepted that the said vehicle was put on fire by Bodo extremists. However, it was found that the earlier policy covered the risk against terrorist "s activities and the renewal of said policy would necessarily cover the risk.

3. AT the time of hearing of this appeal Mr. M.R. Chawla the learned Counsel for the appellant again submitted that the policy issued by the Insurance Company was comprehensive and it would cover all kinds of risks unless some exclusions are made. We have again gone through the records of this case. A copy of the policy of insurance for the period 9.9.89 to 8.9.90 is on the record. It is a commercial vehicle and a comprehensive policy had been issued by the New India Assurance Company Ltd. with respect to the said vehicle in the sum of Rs. 3 lakhs. Section 1 deals with the loss or damage and reads as under: "The Company will indemnify the Insured against loss of or damage to the Motor Vehicle and/or its accessories whilst thereon: (a) by accidental external means, (b) by fire external explosion self-ignition lightning or burglary, house-breaking or theft, (c) by malicious act (d) whilst in transit by road rail inland waterway lift elevator or air.

4. THE fact is that the accident took place on 9.8.90 due to terrorist activities. The Bodo activists are using force and violence to overawe the dejure Government by terrorism and it is an organised system of intimidation established for political ends. We uphold the finding of the State Commission that the loss was caused due to Bodo Terrorists activities. The policy for the relevant period did not cover a risk of terrorist activity but only covered risk of riot and strike or loss by malicious act. It is manifest to note that the first policy that was issued to the complainant was a comprehensive policy for the period 9.9.88 to 8.9.89 and did not cover the risk of terrorist activity. The complainant paid on 7.4.89 premium for terrorist risk insurance and obtained an endorsement

covering that risk for the period 7.4.89 to 8.9.89. The policy that was renewed for the period 9.8.89 to 8.8.90 did not have an endorsement covering the loss by terrorist activity. No additional premium was paid by the complainant for covering the risk of loss due to terrorist activity and the contract of insurance on the record does not cover the risk of loss due to terrorist activities. We may note that for the last three-four years the Insurance Companies are now including the loss suffered by terrorism in the comprehensive commercial vehicles policy but that does not mean that for the period the policy in question was issued loss due to terrorism was included in that. In the result, we hold that the risk of loss due to terrorist activities was not covered by the Insurance Company with respect to vehicle Regn. No UPW 4757 during the period 9.9.89 to 8.9.90 and thus loss on 9.8.90 was not covered by the policy. The claim was rightly repudiated and thus there is no deficiency in service. The appeal fails and is dismissed leaving the parties to bear their own costs.

