(2012) 07 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

MANJULA DAS APPELLANT

Vs

ASHOK LEYLAND FINANCE LTD RESPONDENT

Date of Decision : 09-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 883

Hon'ble Judges : R.C.JAIN , S.K.NAIK J.

Final Decision : Revision Petition partly allowed

Judgement

1. AGGRIEVED by the common order dated 22.10.2007 passed by the Orissa State Consumer Disputes Redressal Commission in CD. Appeal No. 100 of 2001 and 329 of 2001; the original complainant has approached this Commission with the present petition purportedly under Section 21-B of the Consumer Protection Act, 1986. Appeals before the State Commission were filed by the parties aggrieved by the order of the District Forum holding the said order as a cryptic order, the State Commission allowed the appeals and dismissed the complaint.

2. WE have heard Mr. Sudhansu Palo, learned counsel for the petitioner and Mr. Mohan Babu Aggarwal, learned counsel for the respondent and have considered their submissions. The facts and circumstances, which led to the filing of the complaint, are amply noted in the orders of the fora below but the dispute raised in the complaint was in regard to the non-settlement of the insurance claim in respect of an insured vehicle, the vehicle having been seized by the financer. On 03.5.2012, this Commission after hearing the counsel for the parties made the following order: "Complainant/petitioner purchased a vehicle after taking a loan of Rs. 4,44,000/- from Respondent No.1. He got his vehicle insured from respondent insurance company. Vehicle met with an accident. According to the petitioner claim lodged by him for the loss suffered in the accident was not settled by the respondent insurance company, as a result of which he could not pay the installments as he did not ply the vehicle. Vehicle was seized. Petitioner filed the complaint before the District Forum. District Froum allowed the complaint and directed the respondent insurance company to pay sum of Rs.

3,56,439/-. Insurance Company filed the appeal before the State Commission which allowed the same and set aside the order of the District Forum on the ground that the complainant had filed suit before the civil court challenging the seizure of vehicle by respondent no. 1. The dispute before the consumer fora was not regarding the seizure of the vehicle. The dispute between the consumer fora was regarding the reimbursement of the loss suffered by the petitioner due to accident of the vehicle. From the record we find that the respondent insurance company had appointed a Surveyor who submitted his report assessing the loss at Rs. 15,615/-. Copy of the report has not been put on record. Respondent insurance company is directed to put on record the report of the Surveyor. Adjourned to 09.07.2012. "

3. IN compliance of the said order the insurance company has filed the survey report of Er. Biswajit Kanungo surveyor and loss assessor dated 05.1.1998. We have carefully perused the same. As per the summary of assessment, the surveyor had assessed the net loss at Rs. 15,515.12 as against the claimed amount of Rs. 90,400/-. Counsel for the petitioner submits that even if this assessment of loss is accepted on its face value, there has been undue delay in settling the claim of the complainant as a result of which the complainant has suffered loss and injury firstly due to the payment of the road tax and then pecuniary loss towards interest etc. Mr. Mohan Babu, learned counsel appearing for the insurance company fairly states that accepting the net assessment as assessed by the surveyor, this Court may decide the amount of compensation either by way of interest or otherwise.

4. HAVING given our thoughtful consideration with respect of the submissions, we are of the view that besides giving a direction to the respondent-insurance company to settle the claim of the complainant in the sum of Rs. 15,515.12, the insurance company should pay interest @ 9% per annum with effect from 31.3.1999 i.e. the date of the unjustified repudiation of the claim by the insurance company. That apart, complainant is also entitled to the cost of the proceedings before the three Forums. In the result the revision petition is partly allowed and the impugned order passed by the State Commission dismissing the complaint is hereby set aside and the insurance company is directed to pay the sum of Rs. 15,515.12 with interest @ 9% per annum with effect from 31.3.1999 till realization. The petition is also entitled to cost of Rs. 5,000/- throughout the proceedings.

5. THE amount shall be paid within a period of six weeks from today, failing which the rate of interest shall stand enhanced to 12% per annum throughout for the period of default. Revision Petition partly allowed.

