
(2012) 07 NCDRC CK 0065

In the National Consumer Disputes Redressal Commission

Mohal Lal S/O Sh Choka Katara

APPELLANT

Vs

New India Insurance Co Ltd

RESPONDENT

Date of Decision : 31-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 412 : 2012 3 CPJ 536

Hon'ble Judges : K.S.Chaudhari , Suresh Chandra , Rajender Kumar Jain J.

Judgement

1. THIS revision petition has been filed against the order dated 01.03.2011 passed by the State Consumer Disputes Redressal Commission, Rajasthan (in short, "the State Commission") in Appeal No. 333/11 - New India Insurance Co. Ltd. Vs. Mohan Lal by which appeal was dismissed at admission stage.

2. BRIEF facts of the case are that petitioner/complainant filed complaint before District Forum and alleged that his mini Bus No. RJ.03 P.1803 insured by respondent no. 1 - Insurance Company met with an accident on 12.1.2005. FIR was lodged and he spent Rs.80,000/- in repairs and as the Insurance Company has not remitted payment of claim, he filed complaint and claimed Rs.1,10,000/- including amount spent in repairs. Insurance Company contested the matter and District Forum vide order dated 4.1.2011 partly allowed the complaint and directed Insurance Company to pay Rs.20,600/- as damages with interest @ 7% per annum along with Rs.5,000/- as compensation and cost. Petitioner/complainant filed appeal against this order which was dismissed by impugned order.

3. HEARD learned Counsel for the petitioner and perused record.

4. LEARNED Counsel for the petitioner submitted that without giving an opportunity of being heard the appeal has been dismissed without assigning any cogent reason, hence, revision petition may be accepted and matter may be remanded back to the State Commission for deciding it on merits after giving him opportunity of being heard.

5. PERUSAL of impugned order reveals that absence of appellant was recorded in

the order and it was further observed that as the District Forum has rightly decided complaint and there is no error in the order, appeal is dismissed. It appears that appeal has not been dismissed in default and appeal has been dismissed without giving any cogent reasons and simply stated that as order of District Forum is correct and there appears no error, appeal is dismissed which is contrary to law. Appeal has been dismissed on 1.3.2011 whereas District Forum decided claim on 4.1.2011 which shows that appeal has been dismissed just after it was filed without giving petitioner proper opportunity. Either the State Commission should have dismissed appeal in absence of petitioner or appeal should have been dismissed on merits after assigning cogent reasons for dismissal. In such circumstances, we deem it proper to allow the petition and remand the matter to the State Commission for disposal of appeal on merits.

6. CONSEQUENTLY, the revision petition is accepted and order dated 1.3.2011 passed by the State Commission is set aside and matter is remanded to the State Commission with direction to decide the appeal in accordance with law after giving opportunity of being heard to both the parties. Petitioner is directed to appear before the State Commission on 3.10.2012.