(2002) 06 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

MOHAMMAD AKHTER DAR — APPELLANT

Vs

Oriental Insurance Company Ltd. — RESPONDENT

Date of Decision : 28-06-2002

Acts Referred:

Citation : 2003 1 CPJ 559

Hon'ble Judges : M.Y.Kawoosa , Jameela Bashir J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against the order dated 7.3.2000 passed by the D.F. by virtue of which the DF has allowed the complaint of the appellant and has directed the respondent to indemnify the appellant to the tune of Rs. 15,518.00 as recommended by the Surveyor. It may be mentioned here that the damage was caused to the insured house due to flood. There is no dispute regarding the insurance cover but the only controversy between the parties is regarding the quantum of loss. On raising the claim respondent/Insurance Company has appointed Iftekhar Ahmed Beg as Surveyor who has given a detailed report and has assessed the loss at Rs. 15,518.00 while the appellant has contended that the loss caused to his property was worth Rs. 2,58,200.00. Appellant has appointed a Draftsman of its own who has assessed the loss at Rs. 2,58,200.00. Appellant has examined three witnesses. Respondent has examined no witness.

2. HEARD learned Counsels for the parties. Learned Counsel for the appellant raised two points to challenge the impugned judgment. According to him the Surveyor appointed by the Insurance Company was not competent man to assess he loss and secondly according to him Surveyor has not been examined by the Forum so his report is not binding. We have heard rival arguments of the parties. We are not convinced by the arguments of the learned Counsel for appellant that the Surveyor is not competent to assess the loss. We have gone through the impugned judgment also. Learned DF has quoted Section 64 of M.U. of Insurance Act of 1938. It deals with licensing of Surveyors and Loss Assessors. We feel that the DF has very rightly banked on the report of the

Surveyor who is a licensed one. From his report itself it appears that he has been licensed and his licence number is SLA 4735/29.5.2001. He has been licensed by the Controller of Insurance. The only point raised by the Counsel for the appellant is that the Surveyor is qualified in Motor Marine Fire Engineering and Miscellaneous. According to the Counsel for the appellant he (Surveyor) could not assess the loss in this case. We are not convinced by his arguments. Only the flood loss was to be assessed here for which it was not necessary that there should be only a Civil Engineer. Moreover the said Surveyor is not only expert in Motor Marine Fire Engineering but in other miscellaneous jobs also which is written in his certificate. His report is detailed and logical one. There is no reason to disbelieve the report and to depend on the private Draftsman engaged by the appellant of its own. No finger has been raised by the Counsel for appellant regarding the report. The only thing he contended is that he is not an expert. The DF has very rightly based his award on the report of the Assessor who is validly licensed by the Controller of Insurances for the purpose. Against this report, report of the Private Draftsman engaged by the appellant cannot be relied on. Secondly it is not necessary that the Surveyor should always be examined in support of his report. It is necessary only when other party feels that he should cross-examined the said witness and creates doubts against his report. Here no such plea has been raised by the appellant that the Surveyor be called for cross-examination. We are of the view that his report is sufficient in the given circumstances of the case to be relied on. For these reasons, therefore, there is no cause for interference in the impugned judgment. Appeal is dismissed. No order as to costs. Appeal dismissed.