**(1999) 07 NCDRC CK 0023**

**In the National Consumer Disputes Redressal Commission**

MOHAN PYARI APPELLANT

Vs

UNITED INDIA INSURANCE COMPANY RESPONDENT

**Date of Decision :** 12-07-1999

**Acts Referred:**

**Citation :** 1999 3 CPJ 230

**Hon'ble Judges :** T.S.Doabia , Arun Kumar Goel J.

**Final Decision :** Appeal disposed of

# Judgement

1. FOR the loss having been caused to the house on account of floods, the appellant-complainant filed a complaint with the State Commission. This claim stands rejected on the ground of delay. Some observations have been made on merits also.

2. THE husband of the appellant had insured a residential house situated at Anantnag. THE house and the household goods were damaged on account of floods. This damage was caused on 25th September, 1988. On that date, the husband of the appellant who had got the insurance cover was not alive. He had since died on 25th July, 1988. THE appellant preferred a claim before the State Commission. This claim came to be rejected on the ground of delay and also on the ground that the complainant had taken a plea that the claim was lodged by her husband. This factor was taken note of with a view to negative the claim on the ground that the husband of the appellant having died on 25th July, 1988, could not have lodged the claim. It is this aspect of the matter which is subject matter of challenge in this appeal. Placing reliance on paragraphs 3 and 6 of the complaint coupled with the fact that the respondent-Company had agreed to settle the claim of the appellant in case she furnishes the succession certificate, the learned Counsel for the appellant submits that the Commission has not properly appreciated the correct position. We are of the opinion that in para 2 of the complaint, all that has been said is that the owner had lodged a claim. From this, it could not be inferred that it was the husband of the appellant who had lodged the claim. Para 2 has to be read with para 3. On doing so it becomes clear

that the complaint had been lodged by the appellant complainant and not her husband. In view of the above, the observation made by the Commission is not correct. So far as delay is concerned, the Supreme Court of India has observed that if no limitation is fixed by the Legislature, then the judicial Forums should not stipulate any requirement in this regard. The same would apply to the facts of this case also.

In view of the above, the opinion expressed by the Commission that the claim was belated, cannot be accepted. Even on merits, the Insurance Company was ready and willing to settle the claim provided the complainant furnishes the succession certificate.

3. WE are accordingly of the view that the claim of the appellant was wrongly negatived by the Commission. The learned Counsel for the respondent submits that the Surveyor had assessed the loss at Rs. 9,081.50. This assessment was made on 20th October, 1988.

4. THIS appeal is accordingly disposed of with the following directions : (i) that the appellant-complainant is held entitled to the compensation of Rs. 9,081.50 as assessed by the Surveyor; (ii) that the rate of interest would be 12% and this would be payable w.e.f. 1st January, 1989 i.e. a little over two months from the date of submission of the report by the Surveyor; (iii) the appellant-claimant is also entitled to the cost of litigation. The costs are fixed at Rs. 5,000/-; (iv) the respondent-Insurance Company would deposit the amount as indicated above with the Registrar (Judl.) of this Court within a period of three months from today; (v) that in case the amount is not deposited within the stipulated period, the rate of interest would be 15% and this additional interest would be payable by the person on whose account the delay occurs; (vi) the Registrar (Judl.) of this Court would accordingly release the amount deposited with him in favour of the appellant after proper verification. Disposed of in the manner indicated above.

Appeal disposed of.