

(2014) 12 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

Mohit Lal Sao S/O Harsu Ram

APPELLANT

Vs

UNITED INDIA INSURANCE CO LTD

RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Citation : (2014) 12 NCDRC CK 0036

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Final Decision : Petition dismissed

Judgement

1. THERE is delay of 43 days" in filing the revision petition. The delay is explained as follows : - "The certified copy of the impugned order was issued to counsel for the petitioner on 08.05.2014. The advocate sent the same to the petitioner and received by the petitioner on 10.05.2014. After receiving the same, the petitioner consulted the matter with family and advocate Sri Mahesh Pandey at Bilaspur High Court and then decided to challenge the same before Hon"ble National Commission. Having regard to the same, the petitioner approached Sri Mahesh Pandey, Advocate at Bilaspur for drafting of the same and finding a suitable practicing Advocate in Delhi. On 14.08.2014, the documents and case file were handed over to the counsel for the petitioner for preparation of revision petition. Since, there are various documents in Hindi and same require translation in English, the process of translation took some time. Thereafter, the affidavit was sent to the representative for affirmation and the same was returned to the counsel. It is submitted that there is no malafide in preferring the revision with delay".

2. WE are not satisfied with the reasons detailed above. Such like grounds can be created at any time. The law itself gives sufficient opportunity of 90 days" to file the revision petition. Translation of documents from Hindi to English is a matter of a day or two. The case is therefore barred by time. This view is supported by the following authorities. Anshul Aggarwal v. New Okhla Industrial Development Authority, 2011 4 CPJ 63 , State of West Bengal Vs. Brojesh Chandra Singha Barman, 2005 3 CalHN 19, (1) Bikram Dass Vs. Financial Commissioner and

others, 1977 AIR(SC) 2221; (2) R.B. Ramlingam v. R.B. Bhavaneshwari, 2009 2 Scale 108; (3) Ram Lal and Others Vs. Rewa Coalfields Ltd., 1962 AIR(SC) 361, (4) Sow. Kamalabai, W/o Narasaiyya Shrimal and Narsaiyya, S/o Sayanna Shrimal Vs. Ganpat Vithalroa Gavare, 2007 1 MhLJ 807 (5) Balwant Singh Vs. Jagdish Singh and Ors. (Civil Appeal No. 1166 of 2006), decided on 08.10.2010.

3. THE Hon''ble Supreme Court in a recent case titled Sanjay Sidgonda Patil vs. Branch Manager, National Insurance Co. Ltd. and Anr., Special Leave to Appeal (Civil) No. 37183 of 2013, decided on 17.12.2013, confirmed the order of the National Commission and refused to condone the delay of 13 days''. Likewise, delay of 78 days'' was not condoned by the Apex Court in the case of M/s Ambadi Enterprise Ltd. vs. Smt. Rajalakshmi Subramanian in SLP No. 19896 of 2013 decided on 12.7.2013.

4. AGAIN , delay of 77 days'' was not condoned in the case of Chief Off. Nagpur Hous. and Area Dev. Boa and Anr. vs. Gopinath Kawadu Bhagat, SLP No. 33792 of 2013 decided on 19.11.2013. The application for condonation of delay is, therefore, dismissed.

5. NOW , we turn to the merits of this case. The case of the complainant is not strong even on merits. Mohit Lal Sao, the complainant, is a registered owner of vehicle which was insured through United India Insurance Co. Ltd., the OP. The vehicle met with an accident on 10.05.2012 at about 9.00PM. The vehicle was completely damaged. It was checked by Aroop Motor Garage, on 11.05.2012. The police report was lodged on 12.05.2012. The complainant had incurred expenses in the sum of Rs. 2,61,168/ -. His claim was repudiated by the insurance company. A legal notice was sent by him, which also did not bring about the desired result.

6. THE defence set up by the OP is that this case is a premature one. It was mentioned that the incident took place on 10.05.2012 whereas the information was given on 11.05.2012. It was submitted that one person received grievous injuries but details of the same have not been given. Spot survey of the accident vehicle was not made by the complainant. Vide letter dated 06.11.2012, the insurance company requested the complainant to submit certain documents which were also not produced. The insurance company appointed a Surveyor to assess the damages caused to the vehicle. All the formalities were not completed by the complainant.

7. THE District Forum granted a sum of Rs. 2,45,000/ -. However, the State Commission reduced the quantum to Rs. 80,180/ - only. It was argued that the complainant got repaired the vehicle in the workshop of Laxman and for the repair of the vehicle parts were purchased from Calcutta Car Auto, Vaibhav Motors, Shiva Motors, Medini Prasad Sao, Sahu Travels, Shiv Ganga Enterprises, etc., and the complainant had to incur a sum of Rs. 2,61,168/ -.

8. ON the other hand, the State Commission placed reliance on the surveyor report. The Surveyor came to the conclusion that the estimated value of the car

was assessed at Rs. 3,19,100/ - and damages caused to the tune of Rs. 80,180/ -. The State Commission placed reliance on United India Insurance Co. Ltd. Vs. Roshan Lal Oil Mills Ltd. and Ors., 2000 10 SCC 19, D.N. Badoni Vs. Oriental Insurance Co. Ltd., 2012 1 CPJ 272 and three other cases of this Commission. The State Commission has nowhere missed the tree for wood. We add our voice to it and dismiss the revision petition. No order as to costs.