(2015) 02 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

Case No : NO 34 of 2015

M/S. MANGAL ENGG. WORKS — APPELLANT

Vs

ORIENTAL INSURANCE COMPANY LIMITED — RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Constitution of India, Article 226 - Power of High Courts to Issue certain writs

Citation : 2015 3 CPJ 124

Hon'ble Judges : V.K. Jain, B.C. Gupta

Judgement

1. The petitioner/complainant purchased a Honda City car bearing registration No.PB-11-T-1947 and got it insured with the opposite party Oriental Insurance Co. Ltd. for the period from 08-05-2010 to 07-05-2011. The case of the complainant is that on 02-06-2010, his friend Amrik Singh borrowed his car to drop a relative at Delhi Airport and while returning from the airport, the car met with an accident in which it was badly damaged. The matter was reported to the police and a surveyor was duly appointed. After the report of the surveyor an investigator, M/s. Royal Associates was appointed by the insurance company to examine the claim. The claim was eventually rejected by the insurance company vide letter dated 23-11-2010, on the ground that having sold the vehicle before it met with an accident, the complainant did not have any insurable interest in the said vehicle. Being aggrieved from the rejection of the claim the complainant approached the concerned District Forum by way of a complaint, seeking payment of Rs.2,00,000/- with interest along with compensation amounting to Rs.25,000/- and cost of litigation amounting to Rs.11,000/-.

2. The complaint was resisted by the insurance company primarily on the ground that the vehicle in question had been sold by the complainant to Shri Amrik Singh. It was also stated in the reply that the father of the complainant himself admitted this fact, by way of a letter submitted to the investigator on his letterhead. It was also stated in the reply that the policy was taken without disclosing the fact that the vehicle had been sold to Shri Amrik Singh much

before it was got insured from the opposite party. Vide its order dated 16-07-2012 the District Forum directed the insurance company to pay a sum of Rs.1,97,000/- to the complainant along with interest on that amount at the rate of 9% per annum with effect from 01-12-2010. The opposite party was also directed to pay the cost of litigation quantified at Rs.5,000/-.

3. Being aggrieved from the order of the District Forum the insurance company approached the concerned State Commission by way of an appeal. The said appeal having been allowed and the complaint having been rejected, the complainant is before us by way of this revision petition.

4. The only disputed question of fact involved in this case was as to whether the vehicle in question had been sold by the complainant to Shri Amrik Singh before insurance cover was obtained by him from the opposite party or before the vehicle in question met with an accident or not. The State Commission being the final adjudicator on the questions of fact, this Commission while exercising its revisional jurisdiction will not be justified in interfering with the finding recorded by the State Commission unless the same is shown to be perverse.

5. A perusal of the order passed by the State Commission would show that in coming to the conclusion that the vehicle in question had been sold to Shri Amrik Singh, the said Commission relied upon Exhibit R4 to R6. The petitioner has not placed on record the copy of the document which was exhibited as Exhibit R4 before the District Forum. However, the learned counsel for the petitioner/ complainant fairly states that it was a report lodged by Shri Amrik Singh stating therein that he was the owner of the aforesaid vehicle. The report was lodged with the police after the vehicle had met with an accident. It is, thus, evident that Mr. Amrik Singh, who was driving the vehicle at the time it met with an accident, claimed to be the owner of the vehicle, in his report to the police.

6. A perusal of letter dated 09-10-2010 which has been typed on the letter head of Mangal Engineering Works, petitioner before this Commission would show that vide that letter Shri Jai Prakash, partner of the petitioner firm certified that Honda City car No. PB-11-T-1947 had been disposed of by them about three-four years ago and was being maintained by the purchaser himself. The aforesaid letter, written on the letter head of the petitioner firm fully corroborates the claim made by Shri Amrik Singh in his report to the police made soon after the vehicle had met with an accident. Considering the report lodged by Shri Amrik Singh and the certificate given by Shri Jai Prakash partner of the petitioner firm there can hardly be any dispute that the vehicle in question had been sold to the petitioner/ complainant much before the insurance cover was taken by it from the opposite party.

7. The case of the petitioner/complainant is that the investigator had obtained signature of Shri Jai Prakash on a plain paper and averment to this effect has also been made in the complaint. We, however, are not inclined to believe the said averment. In our view, there could have been no reason for the investigator

to forge a letter prejudicial to the interest of the complainant by obtaining the signature of its partner on a blank letterhead of the petitioner firm. This is more so when the petitioner does not claim any enmity with the investigator. In any case, considering the above referred two documents the finding recorded by the State Commission cannot be said to be perverse so as to call for interference by this Commission in exercise of its revisional jurisdiction.

8. For the reasons stated hereinabove, we are not inclined to interfere with the order passed by the State Commission. The revision petition is accordingly dismissed. No order as to costs.