
(2002) 04 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

Nallambali Fibre Products

APPELLANT

Vs

NEW INDIA ASSURANCE CO LTD

RESPONDENT

Date of Decision : 08-04-2002

Acts Referred:

Citation : 2002 2 CPC 440 : 2002 2 CPR 109 : 2002 3 CLT 412 : 2002 3 CPJ 75

Hon'ble Judges : D.P.WADHWA , J.K.MEHRA , B.K.TAIMNI J.

Judgement

1. THIS appeal is against the order passed by the State Consumer Disputes Redressal Commission, Tamil Nadu. The facts in brief are that the appellant is a partnership firm in the manufacture of coir fibre. Its plant and machinery was hypothecated to the Indian Bank which had advanced funds to the appellant. A policy of fire insurance was also taken with the respondent, Insurance Company. The breakup of Rs. 12 lakhs of the insurance is as under : "Building Rs. 3,00,000.00 Machineries Rs. 7,50,000.00 Stock and Stock in Progress Rs. 50,000.00 Stock in open Rs. 50,000.00 Finished products Rs. 50,000.00 Total sum insured Rs. 12,00,000.00

2. ON 4.10.1993 at about 1.45 a.m. fire broke out in the factory of the appellant. This fire was brought under control by the fire tenders at about 5.00 a.m. The police, the Insurance Company and the Bank were duly informed of the fire. That fire once again got ignited at 11.00 a.m. on the same day and was put down subsequently. It is alleged that the appellant suffered total loss to the building, machinery and stocks to the tune of Rs. 8,31,770.35. A Surveyor was appointed who estimated the damage at Rs. 3,61,177/ -. The complainant protested against this and claimed damages in respect of building at Rs. 1,12,000/ -; Rs. 4,60,000/ - for plant and machinery and costs of repairs to the fibring machine at Rs. 87,550/ -. The cost of conveyor belt system was also placed at Rs. 1,90,000/ - and the value of stocks destroyed at Rs. 42,000/ -, electrical instalments at Rs. 1,36,083/ - plus finished products which got destroyed amounting to Rs. 50,000/ -. Apart from this, they claimed the subsequent electricity bills and interest on loan, etc. The appellant also claimed

compensation of Rs. 1 lakh for mental pain and agony. In the final stage, they restricted their claim to Rs. 10 lakhs. Insurance Company made payment of Rs. 3,58,677/- in full and final settlement of the claim. It is noticed by the State Commission that although the complainant did not accept the Surveyors estimate and protested against it, yet the respondent had made the payment of the said amount to the Indian Bank in full and final discharge. The Indian Bank was shown to be beneficiary under the policy. The Bank initially had written to the Insurance Company when it was prepared to accept the said sum of Rs. 3,58,677/- as interim payment but on the Insurance Company taking the plea that it will make payment in full and final settlement and not an interim award, on this the Indian Bank replied on 19th October, 1994, returned the voucher duly signed and informing the Insurance Company that the appellant had already approached the State Consumer Disputes Redressal Commission for enhancement of the settlement. The complaint was filed on 3rd October, 1994 which was 16 days before the Bank signed the receipt and sent it with their covering letter. The discharge voucher which was signed and returned under the cover of letter dated 19th October, 1994 was dated 4th October, even that was subsequent to the filing of the complaint. In the light of this, the State Commission was right in treating the said payment only an interim payment and proceedings to assess the loss on the basis of the evidence adduced before it. The State Commission has taken each item for assessing the loss under various heads and has, as a consequence of that analysis, reached a total figure of Rs. 4,68,893/-, being the total loss. Out of this, it has deducted Rs. 3,58,677/- which was paid by the insurer to the Bank and directed that the balance of Rs. 1,10,216/- be paid with interest at 18% interest from the date of the first payment to the Bank, namely, 4.10.1993 till payment. Apart from this, they have awarded a further compensation in the sum of Rs. 10,000/- having considered all the facts and taking into account the law laid down by the Honble Supreme Court, we consider that ends of justice would be met if the rate of interest is reduced from 18% to 12% p.a., we do not consider any scope for further enhancement of the basic amount of loss assessed by the State Commission on the basis of evidence adduced. This appeal is accordingly disposed of in the above terms. There shall be no order as to costs. Appeal disposed of.