(2003) 07 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

NANHE SINGH APPELLANT

Vs

NEW INDIA ASSURANCE COMPANY LIMITED RESPONDENT

Date of Decision : 16-07-2003

Acts Referred:

Citation : 2003 3 CLT 622 : 2003 4 CPJ 470 : 2004 1 CPR 233

Hon'ble Judges : Palok Basu , Rachna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 7.6.2003 passed by District Consumer Forum, Shahjahanpur in Complaint Case No. 227/2001.

2. MR. R.K. Gupta, learned Counsel for the appellant has argued vehemently three points. First, the District Forum has mentioned wrong date of the post mortem of the she-buffaloes in the judgment. Second, the conclusion that the letter dated 8.6.2001 was forged, is incorrect. Third, the actual post mortem examination had taken place and the ear tags were submitted and, therefore, the complaint should have been decreed. None of the three points are borne out from the discussion as exists in the judgment impugned. The date of the post-mortem 20.1.2001 for one she-buffalo and 10.2.2001 for the other she-buffalo is mentioned in a document admittedly prepared on 29.3.2001. This document is said to have been signed by Doctor who performed the post mortem examination but the original post-mortem report was neither produced nor filed nor got summoned by the complainant during the trial. The conclusion, therefore, that post-mortem report was not in existence is fully justified. Similarly, the ear tags which were always attached with the carcass at the time of post-mortem report were obviously not taken out at that time because there was no post-mortem examination and the original ear tags were not forwarded to the Insurance Company or to the Bank. Therefore, the conclusion that the ear tags were not sent is corroborated from the evidence on the record. The conclusion for that reason that the allegation of the complainant, that both the she-buffaloes had died, was a total concoction, is fully justified.

The letter dated 8.6.2001 is said to have emanated from the Insurance Company but the District Forum has concluded that the alleged letter never had gone from the Insurance Company to the Bank. However, the Insurance Company has denied the existence of such a letter whereas the Bank says that it had received such a letter. The original letter must have been with the Bank, if it was actually received. But no original letter has been filed. Only a photocopy of supposed letter was produced which has not been proved either. Further, the District Forum has found that on 30.3.2001, the Insurance Company had repudiated the claim of the complainant regarding the alleged death of the two she-buffaloes, therefore, there arose never an occasion to write letter dated 8.6.2001.

3. IN view of the aforesaid factual basis and the findings recorded after thorough discussion of evidence on the record, the conclusion of the District Forum is unassailable. IN the order, having recorded the finding that the statements of the Surveyor and his report were reliable, it has been said by the Forum that Rs. 5,000/- cost be awarded to the INsurance Company because of false complaint filed by the complainant. Mr. R.K. Gupta said that the aforesaid amount is unjustified and too heavy for a villager to bear who has fought the litigation right upto this stage. Mr. M.S. Kotwal opposing the appeal on behalf of the New INdia Assurance Company Ltd. left it for the consideration to the Commission as to what amount may be paid. However, he did insist that substantial amount should be asked to be paid as cost to the INsurance Company who contested the matter. After considering this matter in depth, there is no hesitation in saying that the type of villages which the appellant apparently is, are made the escape-goat of machination here and there, which should not be gone into detail. There may be force in the argument that she-buffaloes were purchased after obtaining loan from the Bank which has got to be repaid in any case by the complainant. Heavy monitary liability, thus, stands already on the shoulder of the complainant. It would be too much to expect that if Rs. 5,000/- is asked to be paid by the complainant, such machination will end or such corrupt complaint will stop. To achieve that goal and end, many other methods through social forces have to be adopted. Needless to say that a token amount at this stage on the complainant should be enough to satisfy the Insurance Company that its genuine investigation stands well rewarded by the Commission, therefore, a sum of Rs. 5,000/- is reduced to Rs. 100/- only.

4. THE said sum of Rs. 100/- will be deposited by the complainant within one month from today in the District Forum which will handover it to the Insurance Company through its Counsel or as it may be found fit by the learned Forum within one month of the receipt of the money. Thus, the appeal stands dismissed with the above observation. Let copy of this order be made available to the parties as per rules. Appeal dismissed.

