(2019) 01 UK CK 0001

In the Uttarakhand High Court

Case No : Writ Petition (M Of S) No. 955 Of 2006

Naresh Kumar Dhiman APPELLANT

Vs

Secretary, Office Of Insurance Ombudsman & Others RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

- Insurance Act, 1938 — Section 114
- Limitation Act, 1963 — Section 14
- Redressal Of Public Grievances Rules, 1998 — Rule 13(3)(b)

Citation : (2019) 01 UK CK 0001

Hon'ble Judges : Manoj K. Tiwari, J

Bench : Single Bench

Advocate : Jitendra Chaudhary, D.C.S. Rawat

Final Decision : Dismissed

Judgement

Manoj K. Tiwari, J

1. Petitioner owned a truck, which met with an accident on 14.10.1997, due to which three persons died and two were seriously injured. The truck was set on fire by a mob. Since the truck was insured with United India Insurance Company, therefore, petitioner made a claim before the Insurance Company for compensation which was rejected. The matter ultimately reached Insurance Ombudsman, appointed under Redressal of Public Grievances Rules, 1998 framed under Section 114 of the Insurance Act, 1938.

2. The Insurance Ombudsman issued one letter on 20.01.2003 to the petitioner stating that since his complaint was found to be time barred, therefore, it was closed and the factum of closure of the complaint was duly communicated to the petitioner, therefore, no further correspondence shall be entertained in the matter. The relevant extract of the impugned order dated 20.01.2003 is given below:-

"This has reference to your letter dt. 9.1.03 on the captioned subject. On examination of the documents submitted by you it was reveled that your matter was decided by arbitration in respect of dispute between you and the finance Co. on 25.6.01. Moreover, this office had no jurisdiction to deal with such matter.

As regards complaint against the insurance Co., it was revealed that Co. had repudiated your claim on 13.06.2000 and complaint with this office was lodged on 6.9.02 as such your complaint was time barred and therefore the same has been closed by this office and communicated to you but the registered letter sent to you came back undelivered with the remark of the postal authority that you were not available even after repeatedly visiting your address.

Since we have already closed your complaint, no further correspondence shall be entertained by this office."

3. A perusal of the impugned order reveals that the complaint made by the petitioner to the Insurance Ombudsman was closed, as it was filed after one year of repudiation of his claim by the insurer. Rule 13(3)(b) of the Redressal of Public Grievances Rules, 1998 provides that a complaint to the Ombudsman shall lie only if it is made within one year after the insurer had rejected the representation or sent his final reply on the representation of the complainant. It is revealed from the impugned order that insurer had repudiated petitioner's claim on 13.06.2000 which amounts to rejection of his representation, therefore, he was required to make a complaint within one year i.e. on or before 12.06.2001. Since petitioner made complaint after expiry of limitation period on 06.09.2002, therefore, it was rightly rejected as time barred.

4. Sri Jitendra Chaudhary, learned counsel for the petitioner submits that the stipulation made in the impugned order that petitioner's claim was repudiated by the insurance company on 13.06.2000 is incorrect. He further submits that claim made by the petitioner was never rejected by the insurance company.

5. I am afraid that such an argument cannot be accepted in the absence of any pleading in the writ petition. In the writ petition, there is no statement that claim of the petitioner was never rejected by the insurance company. Moreover, Sri D.C.S. Rawat, learned counsel for the insurance company points out that petitioner has made reference to the letter dated 13.06.2000 issued by Branch Manager, United Insurance Company Ltd in para 7 of his complaint made to the Insurance Ombudsman (enclosed as Annexure No. 5 to the writ petition).

6. In such view of the matter, there is no scope for interference with the impugned order dated 20.01.2003 passed by Insurance Ombudsman.

7. Accordingly, writ petition is dismissed. However, dismissal of this writ petition will not preclude the petitioner from approaching appropriate forum, available to him under law. It goes without saying that he shall be entitled to claim benefit of Section 14 of the Limitation Act, if needed.