(2002) 04 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

NATIONAL INSURANCE CO. LTD.-/ APPELLANT

Vs

<APL>NATIONAL INSURANCE CO. LTD.-/</APL> , ASHOK KUMAR MAHAJAN-Respondent RESPONDENT

Date of Decision : 30-04-2002

Acts Referred:

Citation : 2002 3 CPJ 251

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , B.K.Taimni J.

Final Decision : Revision Petitions disposed of

Judgement

1. THESE two revisions are cross-revisions against the same order passed by the State Consumer Disputes Redressal Commission, Chandigarh in Appeal 108 of 2001 which in turn affirmed the order of the District Forum with the modification that the claim under insurance policy be settled on total loss basis. The brief facts that lead to the filing of the complaint are that the complainant had insured his car with the National Insurance Company for a sum of Rs. 1,25,000/-, which met with an accident during the currency of the policy. Since the claim was not settled within a reasonable time, the complainant filed a complaint before the District Forum, which, after having considered the matter, returned the finding that since the claim was settled on cash loss basis the complainant shall ratain the salvage. It also directed the Insurance Company to pay interest on the sum of Rs. 36,967/- which amount was assessed by the Surveyor on cash loss basis, at the rate of 12% p.a. for the period 1.12.1998 to 27.9.1999. It may be mentined here that during the pendency of the complaint before the District Forum, the complainant was paid the above stated amount of Rs. 36,967/- without prejudice to his rights and contentions. Costs of Rs. 1,100/- were also awarded. Not satisfied with the order of the District Fourm, the complainant went in appeal before the State Commission, which passed the following order : "We are of the considered opinion that the District Forum has rightly come to the conclusion that the respondent, Insurance Company is guilty of deficiency in service. We affirm the judgment of the District Forum subject to modification that the respondent - Insurance Company, is liable to pay compensation to the tune

of Rs. 1,10,000/- on total loss basis to the complainant less Rs. 36,976/- (already paid to the complainant in the District Forum on cash loss basis). The appellant/complainant shall return the salvage of the vehicle within two months of the receipt of this order".

2. AGAINST this order of the State Commission, both the parties have come in revision. While the complainant had come in revision for enhancement of the interest on the amount of Rs. 1,10,000/- to 18% p.a., the respondent has come in revision to set aside the order of the State Commission. Heard Counsels appearing on both sides. A sum of Rs. 36,976/- was paid to the insured before the District Forum on cash loss basis. Having heard the parties we are of the opinion that the State Commission is right in its approach, and the only point to be considered is as to what rate of interest shall be paid on the balance amount out of Rs. 1,10,000/-, i.e. Rs. 1,10,000 - Rs. 36,976=Rs. 73,024/- till the date on which the balance amount of Rs. 73,024/- was deposited with this Commission by way of fixed deposit receipts. In the facts and circumstances of this case, we feel it reasonable if the interest is fixed at 9% p.a. on the entire amount, i.e. Rs. 36,976/- upto the date of payment in the District Forum, on the balance amount of Rs. 73,024/- it was deposited in this Commission. The rest of the order of the State Commission is uphld. Both the revision petitions are disposed of in the above terms. Revision Petitions disposed of.