

(2002) 03 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

National Insurance Co. Ltd.

APPELLANT

Vs

MUNIR SHAH

RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

Citation : 2002 3 CPJ 336 : 2003 1 CPC 231 : 2003 1 CPR 122 : 2003 2 CLT 402

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

Final Decision : Revision Petition dismissed

Judgement

1. IN this revision petition the National INSurance Co. Ltd., petitioner herein, has challenged the order of State Consumer Disputes Redressal Commission, Madhya Pradesh, whereby the order of the District Forum was set aside.

2. THE brief facts in this case are that a matador was insured with the petitioner which was alleged to have been stolen and looted. THE case put up by the complainant-insured was he had hired the services of the driver to ferry some buffalos from Gwalior to Possa. THE driver's name given was Ram Prashad. On the way the driver gave lift to two unknown persons who after crossing river-sand stopped the Matador and the persons whom lift was given offered him pedas as prasad of Nav Durga to the driver. On eating the said pedas the insured became unconscious and his driver and the other persons threw him in the nearby jungle and took away the Matador. THE respondent No. 1 lodged an FIR but neither the Matador could be located nor those persons and the driver. THE Insurance Company repudiated the claim as no claim, vide letter dated 9th May, 1994. THE repudiation was challenged. THE main basis for repudiation is an Investigator's report which was got carried out by the Insurance Company but neither the report was proved on record nor the Investigator produced nor the material whereon the investigation report was based placed on record. On the question that the driving licence was not shown to Insurance Company, when the driver along with the other two accomplices absconded with the vehicle who could give the original driving licence. It is a case of theft of the vehicle together with animals that were being ferried. THE District Forum rejected the complaint

accepting the version of the Insurance Company mainly on the basis of the fact that the repudiation was based on investigation report and the Insurance Company had applied its mind, therefore, cannot be challenged. Its decision is based on the view taken by this Commission in an earlier case reported in III (1998) CPJ 30 (NC), Bhai Bhagtu Cotton Factory & Anr. v. National Insurance Company Ltd. In that case, the material on which the repudiation was based was placed on record and there was a prima facie evidence to support that view. In the present case, the State Commission has gone into the entire evidence and found that no legal evidence has been placed on record to sustain the view taken by the Investigator even the investigation report has not been proved by any affidavit of the Investigator. THE State Commission has based its view on the law laid down by the Hon'ble Supreme Court in AIR 1997 SC 2485 in Virender, Etc. v. THE State of Delhi, JT (1997) 3 SC 31. Similar view was taken by this Commission also in the case United India Insurance Co. Ltd. v. Dasarath Lal Jethabai Patel, reported as II (1996) CPJ 77 (NC)=1996 (2) CPR 5, wherein the bona fides of the repudiation were questioned. Having gone through both the judgments we find that the correct view of the law has been taken and that there is no case made out for us to interfere with the order of the State Commission, under Section 21(b) of the Consumer Protection Act, 1986. THE revision petition is dismissed. Revision Petition dismissed.