
(1997) 08 NCDRC CK 0080

In the National Consumer Disputes Redressal Commission

National Insurance Co. Ltd.

APPELLANT

Vs

P.POOSAPPAN

RESPONDENT

Date of Decision : 01-08-1997

Acts Referred:

Citation : 1998 3 CPJ 613

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Appeal dismissed with costs

Judgement

1. THE opposite party National Insurance Company Ltd., against which an award has been passed is the appellant.

2. THE complainant had insured his tractor with the opposite party. During the currency of the insurance on 18.6.1994 when the tractor was crossing a Railway Level Crossing at Chavadipalayam a train hit at the tractor and it was totally damaged. According to the complainant he sustained a loss of Rs. 1,74,500/-. THE complainant preferred a claim with the opposite party for the said amount. But his claim was negated on the ground that the conditions of policy had been violated. But there was no such violations and therefore the repudiation of the complainant's claim by the opposite party amounts to deficiency in service. On these grounds the complaint was filed. The opposite parties in their version contended that at the time of the accident the tractor was towing two trailers loaded with manure. In such condition under Section 66 of the Motor Vehicles Act the tractor becomes a transport vehicle and that as such required a permit. Only the tractor was insured and no trailer was insured. Therefore rightly the opposite party repudiated the claim. The value of the vehicle was Rs. 1,74,500/-. In any event the amount claimed by the complainant is highly excessive.

The District Forum on consideration of the pleading's and the evidence came to the conclusion that there was no violation of any condition of the policy and as such the Insurance Company is liable to pay the damages. It further found that the damage was a total loss and the amount payable by the Insurance Company to the complainant is Rs. 1,74,500/-. Besides this amount the District Forum held

that the opposite party shall also pay a sum of Rs. 5,000/- as compensation. On these findings the District Forum directed the opposite party to pay the said sum of Rs. 1,74,500/- with interest thereon @ 15% p.a. from 17.8.1994 till date of payment alongwith a sum of Rs. 5,000/- as compensation.

3. NOW in the appeal it is contended that the order of the District Forum is against the law and the facts of the case and as such it is not sustainable. But on a careful consideration of the matter we find no compelling reasons to interfere with the said finding and the order of the District Forum. It is no doubt admitted by the complainant himself that at the time of the accident the tractor was towing one trailer. According to the opposite parties there were two trailers being towed. The finding of the District Forum is that as per the evidence there was only one trailer. Whether it is one trailer or two trailers, there is no prohibition in the policy to the tractor towing trailer or trailers. The District Forum has rightly found that nowhere in the policy it is stated anything prohibiting the tractor towing a trailer or trailers. May be under the Motor Vehicles Act trailer is a vehicle and even that vehicle may be insured. But we are not concerned with that. Only thing that has got to be decided is whether there was any violation of any conditions in the policy. In this respect we are in complete agreement with the District Forum that there is no such violation. In these circumstances, we are satisfied that the repudiation by the opposite party amounts to deficiency in service. Hence they are liable to pay the damages. It is not in dispute that the damage was a total damage. Therefore the complainant would be entitled to the market value of the vehicle as on the date of the accident. It is not in dispute that the vehicle is a new one when it was insured. It has been insured for Rs. 1,74,500/-. Shortly after the insurance the vehicle met with an accident. In these circumstances, it can be safely held that the market value of the vehicle at the time of the accident was Rs. 1,74,500/- as found by the District Forum. Hence this amount the opposite party shall pay to the complainant. With regard to the finding that the opposite party shall pay a compensation of Rs. 5,000/- it appears to us it is quite reasonable and that amount also shall be paid. Regarding the rate of interest ordered also according to us it is quite correct. Thus we find no merit in the appeal.

4. IN the result, the appeal is dismissed with a cost of Rs. 1,000/-. Appeal dismissed with costs.