

(2003) 05 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

NATIONAL INSURANCE COMPANY LIMITED

APPELLANT

Vs

ROOP DAS

RESPONDENT

Date of Decision : 08-05-2003

Acts Referred:

Citation : 2004 1 CPC 573 : 2004 2 CPJ 233

Hon'ble Judges : H.S.Brar , C.P.Budhiraja J.

Final Decision : Appeal dismissed

Judgement

1. IT is an appeal against the order dated 30.12.2002 of the District Consumer Disputes Redressal Forum, Sangrur (hereinafter called the District Forum).

2. ONE out of three buffaloes of the respondent-complainants (hereinafter called the complainants) was insured with the appellant No. 2 (hereinafter called the O.P. before the District Forum). ONE buffalo died on 30.10.2001. The complainants' claim in this connection was not settled. On these allegations the complainants pleaded deficiency in service and sought direction against the O.P. to pay a sum of Rs. 25,000/- on account of insurance claim, Rs. 10,000/- for mental agony and suffering and Rs. 5,000/- as litigation expenses. The O.P. pleaded that three buffaloes of the claimants were insured with him from 7.3.2001 to 6.3.2002 for a total amount of Rs. 38,250/-. On receipt of the information through the complainant's Bank about death of one buffalo, investigation was made. It was found that the particulars of the insured buffalo did not tally with the post-mortem report and the claim note showing that the buffalo which died was other than the insured one. Besides, tag was not found intact. Since the particulars of the insured buffalo were different from the one stated to have died, the claim of the complainant was repudiated and letter dated 4.1.2002 to that effect was sent to him. According to the O.P. there was no deficiency in service.

After hearing the Counsel for the parties and going through the record of the case District Forum allowed the complaint. Hence this appeal.

3. WE have heard the Counsel for the appellants and Shri Roop Dass, respondent, in person and have gone through the record of the case with their help. WE do not find any infirmity in the order of the District Forum Ex. R-6 is the letter dated 4.1.2002 of the O.P. informing the complainant that the animal insured with him was not the one which died as per particulars enlisted by the Veterinary Doctor in the post-mortem report, claim papers and health certificate and, therefore, the O.P. was closing the complainants' file as "No claim". It was rightly observed by the District Forum while passing its order that in the letter of repudiation it was not stated that the absence of an ear tag was also the ground for repudiation of the complainants' claim. The O.P. could not travel beyond the reasons given in letter dated 4.1.2002 while contesting the complaint. Relevant insurance policy document has not been formally tendered in evidence. However, its photostat copy was found on the file by the District Forum. There is nothing in this document to show if any of the three tags bearing Nos. 6002, 6003 and 6004 had been actually put in the ear of the insured buffalo. The O.P. had not pleaded or led any evidence to show if any tag was put in the ear of the insured buffalo and if so, by whom and when. In these circumstances, the absence of the tag tied on the body of the dead buffalo at the time of post-mortem examination could not be treated as a valid ground for the O.P. to repudiate the claimant's claim. In valuation certificate Ex. C-1 the particulars of the disputed buffalo are given as bred Nili Ravi, aged 7 years approximately having female calf aged about eight months. In livestock claim form Ex. C-3, the particulars of the buffalo are mentioned as breed Nili Ravi, colour black, horns openly curved, scar in forehead, hindfeet white upto below hocks, forefeet white, S.O.T. (spot on tail) white, aged 7 years. In the post-mortem examination report Ex. C-4, the particulars are given as breed Nili Ravi, colour black aged 7 years approximately and location third indicating that a portion of the tag was in possession of the insurer. By going through this record, it has been rightly held by District Forum that there was no conflict and contradiction in the description of the insured buffalo as given in Exs. C-1, C-2, C-3 and C-4 vis-a-vis the particulars given in the Health Certificate annexed with the insurance policy document though there may be some omissions/additions here and there. It was of no consequence. In these circumstances, the District Forum held that the particulars of the deceased buffalo substantially tally with the particulars of the buffalo described at Serial No. 1 in the Health Certificate annexed to the insurance policy document.

4. IN these circumstances, we do not find any infirmity in the order of the District Forum. This appeal is thus dismissed with costs which are quantified as Rs. 500/-. Appeal dismissed.