**(1992) 04 NCDRC CK 0021**

**In the National Consumer Disputes Redressal Commission**

National Insurance Company Ltd. APPELLANT

Vs

J. SARVESWARA RAO RESPONDENT

**Date of Decision :** 22-04-1992

**Acts Referred:**

**Citation :** 1992 0 CPC 650 : 1992 1 CPJ 325 : 1993 1 CLT 115

**Hon'ble Judges :** V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

**Final Decision :** Appeal dismissed

## Judgement

1. THIS is an appeal against the Order dated 24.8.1991 of the State Commission of Andhra Pradesh wherein it held that the appellant insurer here, who was the respondent before the State Commission, was guilty of deficiency in service to the insured Respondent/ complainant in the payment of the amount due to the respondent; the appellant had taken unreasonably long time to finalise the loss claimed under the Policy of insurance and paying the same to the respondent insured.

2. THE relevant facts briefly are that the respondent complainant had got a Marine Hull Insurance Policy for its mechanised sailing vessel for a period of one month from 25th March, 19J8 to 24th April, 1989 for a sum of Rs. 24 lacs. THE Insurer collected a premium of Rs. 15,711/- provisionally subject to the approval of the policy by the Insurance Tariff Advisory Committee. The vessel ran aground on 17th April, 1988 near Madras and thus was a loss under the policy. The appellant Insurer appointed M/s. J.B. Boda Surveyors Private Limited as preliminary Surveyors to survey the damage on 17th April, 1988 and appointed a firm of final Surveyors & Adjusters on the 27th May, 1988.

The Surveyor submitted his preliminary survey report on the 3rd of October, 1988 and the Surveyor Adjuster submitted his report on the 12th of March, 1990. In the light of these reports, the appellant Insurer on 26th September, 1990 paid a sum of Rs. 19.50 lacs to the respondent insured as against the amount of total loss assessed at Rs. 20.85 lacs, by the Surveyor and the Adjuster. According to the respondent insured a sum of Rs. 1.35 lacs was wrongfully withheld by the appellant insurer pending approval of the policy by the Tariff Advisory Committee.

3. THE State Commission, after examination of the evidence, came to the conclusion that there was no justification on the part of the Insurance Company in taking more than two years time in having the loss assessed by the Surveyors nominated by them. According to the Order of the State Commission this very delay in getting the loss assessed proves negligence on the part of the Insurance Company. THE State Commission goes on to observe that even after the final report of the Surveyor Adjuster was submitted on the 12th March, 1990, there was a delay of over six months in making the payment of Rs. 19.50 lacs. Accordingly it held that "all these facts clearly establish imperfection or inadequacy of the service undertaken to be rendered by the Insurance Company and thus it amounts in the deficiency in the service". As a result of the negligence on the part of the Insurance Company, the complainant has suffered loss and injury as the facts reveal. At the hearing, the Counsel for the appellant Insurer conceded that there was avoidable delay in releasing the balance of amount of Rs. 1.35 lacs and that the same has now been disbursed and there was no objection in any interest being granted to the insured on this amount if the Commission so decided. He, however, pleaded that the appellant Insurance Company was a Public Sector Undertaking and it was bound by internal procedures requiring minute scrutiny of the claims and their approval at the appropriate levels considering the magnitude of the claim involved, viz., over Rs. 20 lacs. According to him, there was, therefore no avoidable and unreasonable delay in processing the claim by the appellant Insurer.

4. HE also stressed that the respondent did not submit the claim form at the time of reporting the accident and actually submitted it on 3rd July, 1990. The Counsel for the respondent denied this and maintained that it was the duty of the Appellant Insurer to give him the claim form and this was given only in 1990. In any case we would have been impressed by this plea of the appellant only if he had finalised the claim immediately after 3.7.1990 on receipt of the claim in proper form but it took him another two months to settle the claim and that too not for the whole amount We are satisfied that the time taken to process the claim was unduly long. Further interest on the claim had been allowed by the State Commission only from 3rd of October, 1988 when the report of the first Surveyor recommending the claim of Rs. 20.85 lacs was received, whereas the loss occurred on the 7th of April, 1988. We are, therefore, in full agreement with the decision of the State Commission and confirm the same. The appeal is dismissed accordingly. The appellant will pay Rs. 2,000/- as costs to the respondent Appeal dismissed.

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