

(2011) 11 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

NATIONAL INSURANCE COMPANY LTD	APPELLANT
Vs	
Naina Un-Employed Transport Co-Operative Society Ltd	RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Citation : 2012 1 CPJ 376

Hon'ble Judges : Ashok Bhan , Vineeta Rai J.

Final Decision : Revision Petition dismissed.

Judgement

1. NATIONAL Insurance Company Ltd., Petitioner herein which was the opposite party before the District Forum, has filed this Revision Petition against the judgment and order dated 20.3.2007 passed by the State Consumer Disputes Redressal Commission, Himachal Pradesh (in short, "the State Commission") in appeal No. 295/04 by which the State Commission set aside the order of the District Forum and allowed the appeal and directed the Petitioner to pay a sum of Rs. 1,56,434 to the Respondent along with interest @ 9% p.a. from the date of filing of the complaint, i.e. 27.9.2003 till realization. Rs. 5,000 were awarded as costs.

2. COMPLAINANT/Respondent got his vehicle insured with the Petitioner. During the validity of the policy, the vehicle met with an accident and sustained damage. On being intimated, Petitioner appointed a Surveyor to assess the loss who assessed the loss at Rs. 21,577. Petitioner offered the sum of Rs. 21,577 as per the assessment of the Surveyor to the Respondent towards full and final settlement of his claim. Respondent after taking the sum of Rs. 21,577 filed the complaint alleging that the settlement of the claim at such a meagre amount amounted to deficiency in service and unfair trade practice on the part of the Petitioner. In the complaint, he claimed a sum of Rs. 1,56,434.

3. DISTRICT Forum dismissed the complaint.

4. RESPONDENT, being aggrieved, filed an appeal against the order of the District Forum before the State Commission which has been allowed. State Commission

has directed the Petitioner Insurance Company to pay a sum of Rs. 1,56,434 to the Respondent along with interest @ 9% p.a. from the date of filing of complaint, i.e. 27.9.2003 till realization. Rs. 5,000 were awarded as cost.

5. COUNSEL for the parties have been heard.

6. COUNSEL for the Petitioner contends that the State Commission has erred in reversing the order passed by the District Forum. That the Surveyor had assessed the loss at Rs. 21,577. That the report of the Surveyor is an important piece of evidence which has to be given due weight. As against this, Counsel for the Respondent supported the order passed by the State Commission.

7. WE agree with the Counsel for the Petitioner that the report of the Surveyor is an important piece of evidence and has to be given due weight but the report of the Surveyor is not sacrosanct and can be displaced by the complainant by leading cogent and trust worthy evidence to the contrary. In the present case, Respondent had placed on record the bills given by the repairer as well as by the spare part suppliers. He has also filed affidavits of the spare part suppliers and the repairers. It is not the case of the Petitioner that the bills given by repairers and the spare part suppliers were fake or manipulated. Petitioner has not placed any material on record to challenge the authenticity and veracity of the bills as well as the affidavits filed by the Respondent in support of his claim. The State Commission has not accepted the report of the Surveyor in view of the oral and documentary evidence led by the Respondent. We find no reason either to discard the bills or to disbelieve the affidavits filed by the spare part suppliers as well as the repairer. There is no infirmity in the order passed by the State Commission. Revision Petition is dismissed with no order as to costs. Revision Petition dismissed.