

(1999) 09 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

NATIONAL INSURANCE COMPANY LTD	APPELLANT
Vs	
OM PRAKASH AGGARWAL	RESPONDENT

Date of Decision : 24-09-1999

Acts Referred:

Citation : 1999 3 CPJ 617 : 2000 1 CPR 567

Hon'ble Judges : Lokeshwar Prasad , Desh Bandhu , Rumnita Mittal J.

Final Decision : Appeal dismissed

Judgement

1. THE present appeal, filed by the appellant, is directed against order dated 13.8.1999, passed by District Forum No. I in Complaint Case No. 779/97 entitled Sh. Om Prakash Aggarwal v. THE National Insurance Company Ltd.

2. THE facts relevant for the disposal of the present appeal lie in a narrow compass. THE respondent/complainant filed a complaint under Section 12 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act") before the District Forum, averring that his Tanker, bearing No. DLIG-A/4149, insured with the appellant for the period from 22.7.1995 to 21.7.1996 got burnt on 19.9.1995 while the above said Tanker was being filled in with thinner at the factory premises of M/ s. Rajdhani Petrochemicals, situated at 32-33/1, Holambi Kalan, Alipur, Narela. THE respondent/ complainant, in terms of the insurance policy preferred a claim for total loss with the appellant on 20.9.1995. Since the claim preferred by the respondent/complainant was not settled by the appellant in spite of furnishing all requisite information and documents, the respondent/complainant filed the complaint before the District Forum with the prayer that the appellant be directed to settle his claim at the earliest. The claim of the respondent/complainant, in the District Forum, was contested by the appellant. The stand taken by the appellant in the District Forum was that at the relevant time i.e. when the Tanker in question got burnt, and the alleged accident took place, the driver of the vehicle in question was not holding an effective driving licence.

On a perusal of the order, being impugned in the present proceedings, it is

apparent that it has been held by the learned District Forum that at the relevant time when the accident in question took place, resulting in loss to the Tanker, the Tanker in question was stationary and not in motion and, therefore, the defence taken by the appellant before the District Forum was not at all sustainable in terms of the insurance policy. The learned District Forum vide impugned order has partly allowed the complaint of the respondent/complainant and directed the appellant to settle the claim of the respondent/complainant on total loss basis and to pay to the complainant a sum of Rs. 4,02,000/- minus Rs. 1,60,000/- as the costs of salvage i.e. Rs. 2,42,000/- net with interest @ 12% p.a. for two months after the date of the report of the Surveyors viz. 18.1.1996 till the date of actual payment. The learned District Forum has also awarded a sum of Rs. 1,000/- to the respondent/complainant as costs of litigation to be paid by the appellant.

3. IN our opinion, in the given facts, the above findings of the learned District Forum suffer from no infirmity so as to call for any interference by this Commission in exercise of its appellate powers. Accordingly, the present appeal filed by the appellant, is directed to be dismissed in limine. IN the facts and circumstances of the case the parties are left to bear their own costs. Appeal dismissed.