(2007) 01 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

NATIONAL INSURANCE COMPANY LTD — APPELLANT

Vs

SHYAM DEVI TIWARI — RESPONDENT

Date of Decision : 16-01-2007

Acts Referred:

Citation : 2007 1 CPR 235 : 2007 2 CPJ 44

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Advocate : Pankaj Bala Verma

Judgement

1. THIS revision is directed against the order dated 31. 7. 2006 of State Commission, Delhi, partly allowing appeal against the order dated 6. 7. 2001 of a District Forum. The District Forum had allowed the complaint filed by the respondents with direction to the petitioner to pay amount of Rs. 2 lakh with interest @ 9% p. a. from 22. 1. 1997; pay Rs. 25,000 as compensation and Rs. 5,000 as costs to the respondents. In appeal, award of the amount of Rs. 25,000 as compensation was set aside while maintaining rest of the order of the District Forum.

2. FIAT Car No. DL-1c-B-2483 owned by the respondents was comprehensively insured including for personal accident benefit with the petitioner-Insurance Company for the period from 15. 10. 1993 to 14. 10. 1994. On 29. 8. 1994, son of the respondents while driving the car met with an accident and died at the spot. In regard to accident, FIR No. 301/94 dated 29. 8. 1994 under Sections 279/304a, IPC was registered at Police Station, Behror, Rajasthan. Car was totally damaged and claim on total loss basis was paid by the petitioner. On personal accident benefit claim not being settled, the respondents filed complaint which was contested by the Insurance Company. Short submission advanced by Mrs. Pankaj Bala Verma for petitioner is that the compensation as awarded consequent upon the death of the son of respondents is not admissible under IMT 5 of the policy in question as the deceased was not a passenger in the car. Though copy of the policy is placed on record but the page containing said IMT 5 has not been filed. However, this IMT has been reproduced at page 8 of the

revision petition. Bare reading thereof, would show that claim for bodily injury/ death is not payable for the insured and/or his paid driver, attendant, cleaner and/or person in the employment of insured coming within the scope of Workmen''s Compensation Act, 1923. Deceased son of the respondents did not fall in any of the excepted categories. In our view, all persons other than falling in excepted category suffering bodily injury/death are covered by the policy in question. Thus, the petitioner cannot defeat the claim payable under the policy on ground of deceased not being the passenger in car. Revision petition is, therefore, dismissed being without any merit. Revision Petition dismissed.

