
(2023) 10 J&K CK 0018

In the Jammu And Kashmir High Court

Case No : Others Writ Petition No. 738 Of 2007

Nazir Ahmed Shah

APPELLANT

Vs

National Insurance Co. Ltd

RESPONDENT

Date of Decision : 10-10-2023

Acts Referred:

Citation : (2023) 10 J&K CK 0018

Hon'ble Judges : Sanjeev Kumar, J;Mohan Lal, J

Bench : Division Bench

Advocate : Qadri Towkeer Nazir, Suneel Malhotra

Judgement

Sanjeev Kumar, J

1. Truck No. 7417-JKS owned by the petitioner met with an accident at Mirzapur Kashikot in District Anantnag and suffered extensive damage. On the basis of the report submitted by the surveyor who visited the spot and examined the vehicle, the petitioner was offered the claim on repair basis. This was not accepted by the petitioner who filed the complaint before the Divisional Consumer Forum, Jammu on 14.12.2002. The complaint was decided by the forum vide its order dated 16.02.2006. The petitioner was held entitled to indemnification on the basis of total loss market value basis and an amount of Rs. 1,03,500/- along with six percent interest and litigation expenses of Rs. 2000/- was awarded in favour of the petitioner. The petitioner was also held entitled to retain salvage of the truck in question. This order was assailed by the respondent-insurance company before the J&K State Consumer Dispute Redressal Commission, Jammu [“the Commission”] in appeal No. 3017/08. The appeal filed by the respondent-insurance company was partly allowed and the petitioner herein was found entitled to an amount of Rs. 57,465/- only on loss on repair basis. The petitioner was also held entitled to six percent interest and Rs. 2000/- as litigation charges. It is this order of the Commission dated 23.12.2008 which is called in question before us.

2. The petitioner claims that he is entitled to be compensated on the basis of total loss market value basis and is entitled to be paid a compensation of Rs. 1,03,500/- with option to retain the salvage.
3. Per contra, Mr. Suneel Malhotra, learned counsel appearing for the respondent-insurance company submits that the order of the Commission deserves to be upheld as the petitioner is entitled to be paid the compensation on repair basis as is recommended by the surveyor appointed by the company.
4. Having regard to the fact that the respondent-insurance company has already deposited the total amount awarded by the Commission and the claim raised by the petitioner is very small and meager, we persuaded both the parties to enter into amicable settlement. We are happy to note that both the counsel appearing for the parties responded positively.
5. On the basis of agreement of both the parties, we dispose of this petition by directing the respondent-insurance company to pay sum of Rs. 40,000/- in addition to the amount already deposited within a period of four weeks from today.
6. The petitioner shall be free to withdraw the amount deposited before the Divisional Consumer Forum, Jammu and the J&K State Consumer Disputes Redressal Commission, Jammu along with interest earned thereupon subject of course to proper verification and identification.
7. Record of the Divisional Consumer Forum, Jammu and the Commission be returned.