(2004) 06 NCDRC CK 0102

In the National Consumer Disputes Redressal Commission

NEW ASHA WOODEN WORKS APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD. RESPONDENT

Date of Decision : 09-06-2004

Acts Referred:

Citation : 2004 2 CPR 602 : 2004 3 CLT 120 : 2005 1 CPJ 186

Hon'ble Judges : V.K.Agrawal , Veena Misra , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal, under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 27.2.2004 in Complaint No. 368 of 2003 by District Consumer Disputes Redressal Forum, Raipur (hereinafter called the ''District Forum'' for short) dismissing the complaint of the complainant/appellant.

2. UNDISPUTABLY, the complainant/appellant obtained a Standard Fire and Special Perils Policy from the respondent/insurer covering the risk to the extent of Rs. 2.50 lacs, for the period from 30.1.2002 to 29.1.2003. It is further averred by the complainant/appellant that the complainant''s father Chintaram Sahu carried on the business in the premises under the name and style of New Asha Wooden Works, and after his death the complainant/appellant is looking after the said business. The premises of the said business is located at Agrasen Chowk, Bhainsthan, Raipur consisting of the factory and godown. UNDISPUTABLY on 19.7.2002 at about 8.00 p.m. the first floor of the said building suddenly collapsed. The report of the incident was lodged with the police station and intimation was given to the respondent/insurer also. Surveyor was also appointed by the respondent. However, the claim was repudiated by the respondent/insurer by their letter dated 9.12.2002 on the ground that peril was not covered under the policy. The complainant feeling aggrieved by the repudiation of the claim as above filed the complaint and claimed a sum of Rs. 2.50 lacs with interest and compensation.

The complaint was resisted by the respondent/insurer, mainly on the ground that the said accident was not on account of any of the perils covered under the policy issued by the respondent/insurer and that the said building collapsed on account of its faulty construction.

3. DISTRICT Forum in the impugned order held that none of the conditions of the policy covering the risk are applicable to the facts and circumstances of the instant case. Hence, the complainant was not entitled to the benefit under the policy. The complaint was, therefore, dismissed. Learned Counsel for appellant urged that collapse of the building must have been on account of some external cause and that the respondent/insurer did not properly assess the cause of its collapse and condition of the building at the time of insuring the same. It was further submitted that the policy of insurance should receive liberal interpretation in favour of the complainant. Learned Counsel for appellant in support of the above contention relied upon the decision of the Supreme Court in United India Insurance Co. v. M/s. Pushpalaya Printers, I (2004) CPJ 22 (SC). In the said case the question that arose for consideration was; as to whether the word ''impact'' contained in Section 5 of the insurance policy of the said case, covered the damage caused to the building and machinery due to driving of Bull Dozer on the road close to the building. In that context, it was observed that where the words of documents are ambiguous, they shall be construed against the party who prepared the documents. It was further observed that the rule as above applies to the contracts of insurance.

4. IN the instant case we find that in para 5 of the complaint it was simply averred that the upper floor of the insured building suddenly collapsed. However, no reason has been assigned in the complaint as to why occurrence as above took place. The perusal of copy of the Standard Fire and Special Perils Policy issued by the respondent/insurer filed by the insurer indicates that the policy does not cover any such risk. Clauses 1 to 12 enumerate the risks covered by the policy. However, none of the said clauses cover the risk of sudden collapse of the building without any specific cause. IN the circumstances, we find that language used in the policy clearly and unambiguously denotes that it would not cover the risk of sudden collapse of building as averred in the complaint. Hence, on due consideration and interpretation of the terms of policy we do not find that risk of collapse of the building was covered by the policy. Accordingly, we find that the conclusion arrived at by the District Forum is proper and no interference therein is called for. This appeal has no substance. It is accordingly dismissed. However, the complainant would be free to avail of such other legal remedy, as may be available to her. Appeal dismissed.

