
(2012) 07 NCDRC CK 0140

In the National Consumer Disputes Redressal Commission

New India Assurance Co Ltd

APPELLANT

Vs

Chandu Lal Ronak Ram Ding Mandi, Ronak Ram

RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 338 : 2012 3 CPJ 421 : 2012 3 CPR 365

Hon'ble Judges : K.S.Chaudhari , Anupam Dasgupta J.

Advocate : Hardik Luthra , Mohan Babu Agarwal

Judgement

1. THIS revision petition has been filed against the order dated 05.12.2007 passed by the State Consumer Disputes Redressal Commission, UT, Chandigarh (in short, "the State Commission") in Appeal No. 2743/2001(Hr)/RBT/289/2007 dismissing the appeal filed by the petitioner-appellant affirming the order passed by the District Forum by which claim of Rs.77,569.38 was allowed.

2. THE brief facts of the case are that Ronak Ram, Respondent No. 2 was the sole proprietor of Respondent No.1 owned Jeep No. HR 24/C/6300 which was insured by the petitioner vide cover note no. 76529 for a period of one year commencing from 8.9.1999 to 7.9.2000. The jeep met with an accident on 26.3.2000 and suffered extensive damage. FIR No.67 was lodged at PS, Ding on the same day and the matter was also reported to the petitioner-Insurance Company which appointed Mr. Harish Sethi, Surveyor to whom necessary documents were submitted. But, ultimately the claim was repudiated. Hence, the complaint was filed. Petitioner-respondent submitted written statement and alleged that at the time of the accident, the jeep was being plied on hire basis. Hence, the claim was rightly repudiated and there being no deficiency in service, the complaint may be dismissed. The learned District Forum after hearing the parties allowed the complaint against which an appeal was filed by the petitioner which too was dismissed.

3. HEARD the learned Counsel for the parties and perused record.

4. LEARNED Counsel for the petitioner submitted that at the time of the accident,

the insured jeep was plied on hire basis whereas as per insurance policy taken for the jeep it was to be used for personal use. Hence, there was breach of conditions of policy and the petitioner rightly repudiated the claim. But the learned District Forum and the State Commission committed error in allowing compensation. Hence, the petition may be accepted and the complaint may be dismissed. On the other hand, learned Counsel for the respondent submitted that there was no iota of evidence that at the time of accident, the jeep was being plied on hire basis and further argued that even if it was taken, for the sake of argument, that the jeep was being plied as a taxi, the respondent was entitled to get compensation in the light of the judgments pronounced by the Apex Court.

5. IT is an admitted case that the complainant's jeep was insured by the petitioner and during subsistence of the insurance policy, the jeep met with an accident and was damaged. It is also an admitted fact that as per the terms and conditions of the insurance policy, the jeep was not to be plied for "hire or reward". Learned Counsel for the petitioner submitted that the investigator, Shri Risal Singh submitted a report and pointed out that at the time of the accident, Shri Jug Lal had taken the jeep on hire for Rs.300/- to go to Ding in Barat of his sons. Statement of Jug Lal taken on oath by Risal Singh was also filed. Admittedly, the investigator Shri Risal Singh who was a retired police official had no authority to administer oath and record statement of Shri Jug Lal on oath. The petitioner failed to produce Shri Jug Lal or any other occupant of the jeep at the time of accident before the District Forum and in such circumstances, no reliance can be placed on the statement of Shri Jug Lal or the report of Shri Risal Singh. The petitioner also failed to produce receipt of Rs.300/- received by the complainant from Shri Jug Lal to prove fact of hire of taxi. In such circumstances, the learned District Forum and the State Commission did not commit any error in holding that the petitioner failed to prove that at the time of the accident, the jeep was being plied on hire basis.

6. AS the petitioner failed to prove that the jeep was being driven on hire basis at the time of accident, we need not give a finding on the issue whether the claimant-respondent is entitled to get compensation even if the jeep was being plied on hire basis at the time of accident.

7. AS far the amount of compensation is concerned, the Fora below have not committed any error in awarding compensation as claimed, as the petitioner withheld the report of the first surveyor, Mr. Harish Sethi. The report submitted by Mr. Naresh Gupta is also incomplete.

8. IN the light of the above discussion, the petition is liable to be dismissed.

9. HENCE, the revision petition filed by the petitioner against the respondent is dismissed. Parties shall bear their own costs.