

(2006) 02 NCDRC CK 0038

In the National Consumer Disputes Redressal Commission

New India Assurance Co. Ltd.

APPELLANT

Vs

HARISH CHANDRA BINDRA

RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Citation : 2006 3 CPJ 289

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal J.

Final Decision : Appeal partly allowed

Judgement

1. VIDE impugned order dated 6.6.2005, the appellant company has been directed to pay Rs. 48,854 towards the expenses incurred by the respondent on the repair of the vehicle which met with an accident minus Rs. 500 towards less excess clause and Rs. 2,000 as cost of litigation. Feeling aggrieved, the appellant has directed this appeal.

2. PERUSAL of the impugned order shows that on receipt of the claim, filed by the respondent, the appellant appointed a surveyor. In view of the observations of the surveyor that accident appears to be old one, the claim of the respondent was repudiated. In our view, there is no infirmity in the impugned order as there was presumption that at the time of issuing of insurance cover by the appellant, the vehicle must have been closely and physically investigated but there appears to be no such physical inspection of the vehicle carried by the appellant and there is no observation that the vehicle had met with accident prior to the insurance cover. However, we partly allow the appeal by modifying the impugned order by allowing 5% depreciation of the value of the parts which were replaced over and above Rs. 500 towards excess clause. Rest of the order is maintained. A copy of this order, as per the statutory requirements, be forwarded to the parties, free of charge and also to the concerned District Forum and thereafter the file be consigned to the Record Room. Appeal partly allowed.