(2007) 08 NCDRC CK 0067

In the National Consumer Disputes Redressal Commission

New India Assurance Co Ltd — APPELLANT

Vs

Rajeshwar Prasad — RESPONDENT

Date of Decision : 09-08-2007

Acts Referred:

Citation : 2008 1 CPJ 38

Hon'ble Judges : R.C.Kathuria , Banarsi Das , Shakuntla Yadav J.

Final Decision : Appeal disposed of

Judgement

1. -CHALLENGE in this appeal is to the order dated 6. 4. 2007 passed by the District Consumer Disputes Redressal Forum, Ambala whereby while accepting the complaint of the respondent-complainant following directions have been given to the appellant-opposite party: " (i) To pay Rs. 3,33,498. 62 with interest @ 8% p. a. w. e. f. 20. 7. 2005 onwards. (ii) To pay Rs. 5,000 as compensation for harassment. (iii) To pay Rs. 2,000 as costs of proceedings. "

2. PUT shortly, the facts of the case are that the opposite party had provided insurance cover to the complainant against the cash in transit from Karnal District to Ambala District and the surrounding area of 200 kms. for the period 25. 7. 2002 to 24. 7. 2003 under cover note No. CH/01-220091 dated 25. 7. 2002. After the expiry of the said policy, another fresh policy was obtained by the complainant whereby cover for cash in transit upto Rs. 3 crores and cash in safe to the amount of Rs. 5 lacs for the period from 25. 7. 2003 to 24. 7. 2004, under cover note No. CHD/2002/302685 dated 8. 7. 2003. On 14. 6. 2004. Mr. Praveen Kumar, authorised agent of the complainant was carrying the amount of Rs. 3,33,490. 62 after collecting the same from M/s. Shiv Agencies, Bilaspur and M/s. Kalra Agencies, Yamunua Nagar in the area of Jagadhri. He was stopped by three miscreants who looted the cash, scooter and mobile from him. Report was made to the police. Necessary intimation was given to the opposite party on 17. 6. 2004. The opposite party deputed Surveyor who assessed the loss of cash in transit to the extent of Rs. 3,33,498. 62. The complainant had also submitted the non-traceable report of the police on 3. 12. 2004 along with the order of the

Additional Chief Judicial Magistrate, Yamuna Nagar dated 16. 12. 2004. The opposite party did not pay the claim of the complainanant despite several communications to it in this regard. The opposite party finally repudiated the claim as per report dated 20. 7. 2005 on the ground that the claim was not maintainable as the area covered under the policy was Ambala and Karnal Districts only while the loss occurred in Yamuna Nagar District. Aggrieved by the action of the opposite party the present complaint was filed. The complaint was contested by the opposite party. In the written statement filed it justified the repudiation of the claim on the ground that the insurance cover of cash transit was confined to Ambala and Karnal Districts as well as surrounding areas but no cover was provided to imagined coverage of 200 kms. and for that reason the complaint merited dismissal. On the basis of the above pleadings of the parties and evidence adduced on record the District Forum found no substance in the stand of the opposite party and as per order dated 6. 4. 2007 accepted the complaint and issued the directions to the opposite party noticed above. Aggrieved by the said order the present appeal has been filed by the appellant-opposite party. There is delay of 13 days in filing the appeal and the same is condoned under the circumstances of the case.

Learned Counsel representing the appellant-opposite party has been heard at length.

3. LEARNED Counsel representing the appellant-opposite party while assailing the order of the District Forum has mainly urged that the risk of the cash loss in transit on 14. 6. 2004 in the area of Yamuna Nagar District, as such, was not covered under the insurance policy issue to the complainant and for that reason the claim was rightly repudiated on 20. 7. 2005 as the incident in question had not taken place within Karnal and Ambala Districts. It was also pointed out by him that the District Forum extended the coverage of 200 kms. beyond the area forming part of Ambala and Karnal altogether ignoring the fact that if the intention of the opposite party was to give coverage of 200 kms. within the area of Yamuna Nagar, then it would have specifically mentioned Punjab, Haryana, Himachal Pradesh as the adjoining surrounding areas which fall within the distance of 200 kms. from the shop of the complainant. In order to appreciate the submission made, notice has to be taken on the insurance cover provided to the complainant as detailed in the policy Annexure R1, the relevant portion of the policy reads as under: "policy Period : 00 : 00 hours on 25. 7. 2003 to Midnight on 24. 7. 2004 Receipt Date : No. 09. 7. 2003 1/2003 105080 NLA 353501: 100 : net Premium : Rs. 5,060 (Rupees five thousand sixty only), description of Money to be insured : Karnal and Ambala districts and Surrounding Area. Premises section IA Money for the payment of wages, salaries and other earning or for petty cash in direct transit from the bank to the insured''s premises from the time the cash is received at the bank by the insured or the authorised employee/s of the insured until delivered at the premises or other place of disbursement and whilst there until paid out provided that out of business hours such cash shall be secured in locked safe or locked strong room on the premises.

Cheques drawn by the insured to provide for such cash are covered in transit from the Premises to the Bank. Section 1b Money (other than described in IA above) in the personal custody of the insured or the authorised employee/s of the insured whilst in direct transit between the premises and the bank or Govt. Office and vice versa. Section IC Money (other than described in IA and IB above) collected by and in the personal custody of the Insured or the authorised employee/s of the insured whilst in transit to the premises of bank within a period not exceeding 48 hours from the time of collection and vice versa. Estimated total amount of the money in transit per annum: section II (Cash other than described in Section IA above) whilst on the premises during business hours or whilst secured in locked safe or locked strong room on the insured''s premises out of business hours against the risk of burglar, house breaking and hold-up. "

The other details have been annexed and the maximum distance for which the money would be covered has to be stated to be 200 kms. It is also stated therein that the address between which the money will be carried is Ambala, Karnal and Ambala Districts. It cannot be ignored that between Karnal, Ambala Districts, Kurukshetra District also falls in between. Therefore, the intention of the opposite party to provide cover upto distance of 200 kms. is clearly spelled out. During the course of arguments it was pointedly asked from the learned Counsel representing the appellant-opposite party that the place where the incident of robbery had taken place at Yamuna Nagar is located within 200 kms. from Ambala to which he admitted to be factually so. Therefore, keeping in view the terms of the policy, the incident in question would be covered under the insurance cover provided to the complainant. This appears to be a reasonable interpretation of the terms of the policy and is in accordance with the well settled principle that if the terms of the policy are vague, it should be construed for the benefit of the assured as it would serve the purpose and object of insurance coverage. Reference in this regard may be made to Skandia Insurance Co. Ltd. v. Kokilaben Chandravadan and others, I (1987) ACC 413 (SC)= (1987) 2 SCC 654; Shashi Gupta v. Life Insurance Corporation of India and Anr. , II (1995) CPJ 15 (SC) ; B. V. Nagaraju v. Oriental Insurance Co. Ltd. , II (1996) CPJ 28 (SC)=i (1997) ACC 123 (SC)= (1996) 4 SCC 648; Life Insurance Corporation of India v. Raj Kumar Rajgarhia and Anr. , II (1999) SLT 362= (1999) 3 SCC 465. Moreover, the interpretation which is beneficial to the policy holder in case ambiguity should be accepted. The Hon''ble Supreme Court of India has emphasized this aspect in case of Life Insurance Corporation of India and Ors. v. Asha Goel and Anr. , I (2001) SLT 89= (2001) 2 SCC 160. Under the circumstances of the case the District Forum was fully justified in accepting the complaint. At the same time benefit of interest @ 8% on the sum assessed and Rs. 5,000 as compensation for harassment has been awarded. Double benefit cannot be granted under the law. Therefore, order of awarding compensation amount of Rs. 5,000 is set aside while maintaining rest of the order of the District Forum. With the above modification in the order of the District Forum, the appeal is disposed of accordingly. Appeal disposed of.

