

(2004) 11 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

New India Assurance Co. Ltd.

APPELLANT

Vs

SUDHIR GUPTA

RESPONDENT

Date of Decision : 19-11-2004

Acts Referred:

Citation : 2005 2 CPJ 444

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra J.

Final Decision : Appeal disposed of

Judgement

1. THE appeal arises out of the order dated 16.11.2000 passed by the District Forum whereby the appellant was directed to pay to the respondent Rs. 1,95,000/- being the cost of the Ultrasound machine which had been stolen on 19.1.1999 along with interest @ 15% besides cost of Rs. 2,000/-.

2. ADMITTEDLY the appellant issued an insurance cover note in respect of the respondent's ultrasound machine for an insurance amount of Rs. 3,00,000/- after receiving the premium of Rs. 7,891/-. The insurance was against the theft of the machine as well as thereof viz., probe and thermal printer. The machine was stolen on 19.1.1999 in respect of which an intimation was sent to appellant. According to the respondent the value of the said machine was Rs. 1,95,000/- whereas the two Surveyors appointed by the appellant assessed the loss at Rs. 81,000/- and Rs. 51,000/- respectively. Though the Counsel for the appellant assailed the impugned order on the ground that the place and location of the machine was not mentioned in the proposal form whereas the place of location in the insurance cover is shown as 874, Krishi Apartments, Vikaspuri, New Delhi but the police report lodged by the respondent shows that the part was stolen from Mata Chanan Devi hospital. But we find that this contention is of no consequence firstly because the machine was inspected at Mata Chanan Devi hospital before insurance and secondly that the place of location of said machine is of no consequence for the purpose of insurance against theft or loss on any other count. The insurance is relevant for the machine and not the place or location. Moreover the appellant had also charged enhanced rate of payment @ 2.5%

instead of 1.05% on account of the machine being portable machine.

In view of the fact that the machine was stolen after the period of six months and have been put in use the cost assessed by the respondent's valuer on the basis of the quotation of the supplier is difficult to accept. Again the value assessed by the Surveyor at Rs. 81,000/- against the quotation of Rs. 1,95,000/- appears to be on the conservative side.

3. TAKING overall view of the matter and period of six months the machine has been put into use and that too in a hospital and there being no convincing evidence as to the actual cost of the relevant part of the machine we deem that the compensation of Rs. 1 lac on account of insurance claim would meet the ends of justice. In place of interest the appellant shall also pay compensation and damages for wrong repudiation of the claim of a sum of Rs. 25,000/-. The payments shall be made within one months. Appeal is disposed of in above said terms. 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 Record Room. Appeal disposed of.