

(1999) 06 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

NEW INDIA ASSURANCE COMPANY LIMITED

APPELLANT

Vs

STEEL EDGE (INDIA)

RESPONDENT

Date of Decision : 29-06-1999

Acts Referred:

Citation : 1999 2 CLT 362 : 1999 2 CPJ 680 : 1999 2 CPR 547 : 2000 1 CPC 168

Hon'ble Judges : A.L.Bahri , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal dismissed

Judgement

1. THE New India Assurance Company has challenged order of District Forum, Patiala dated July 22, 1997 whereby direction was given to the Insurance Company to pay a sum of Rs. 84761/- alongwith 12% per annum interest thereon with effect from October 1, 1994 till payment with Rs. 500/- as costs to the complainant M/s. Steel Edge (India), a partnership concern having factory premises at Patiala. THEy had taken an insurance policy from the appellant Insurance Company on January 29, 1993 on payment of necessary premium as small scale industry. THE Insurance Company wrongly issued policy of "C instead of policy "A". On account of floods damage was caused to the articles stored at the factory premises. A claim was lodged with the Insurance Company, which was repudiated asserting that damage caused by floods was not covered under Fire Policy "C" which was factually issued. It was alleged that by non-issuance of appropriate policy "A" unfair trade practice was adopted by the Insurance Company. THE appellant Insurance Company contested the complaint re-asserting that their repudiation of the claim was valid and was as per terms and conditions of the policy "C" as issued. THE District Forum accepted the stand of the complainant, a small scale industry, that in view of the premium paid @ Rs. 1.03 p. in fact policy "A" was required to be issued treating the complainant firm as small scale, industry. Hence directions were given as stated above.

2. MR. Pardeep Bedi, Advocate for the appellant, Insurance Company, has produced All India Fire Tariff as issued by Tariff Advisory Committee, (General Insurance), Bombay. Part 3 relating to tariffs provides as under : "Section 2-

Artisans" Workshops, Bio-gas Plants, Village and Cottage Industries, Tiny Sector or Small Scale Industries. Scope : This section applies to Artisans" Workshops, Bio-gas Plants, Village and Cottage Industries, Tiny Sector or Small Scale Industries as defined hereunder (other than Cotton Gin and Press Factories, Jute Presses and Saw Mills). Only Fire Policy "A" can be issued to cover risks ratable under this section of the Tariff. Rate Description of risk Rate not Code less than No. Rs. per Mille Per annum 321 Artisan"s Workshops, Bio- 1.05 gas plants, Village and Cottage Industries, Tiny Sector or Small Scale Industries (other than Cotton Gin and Press Factories, Jute Presses and Saw Mills) where (a) Original investment in zequipment and machinery does not exceed Rs. 5 lakhs and (b) Total value at risk (including Building, Machinery, Stocks and Stock-in-process within and/or outside the worksite) does not exceed Rs. 10 lakhs. It may be observed that the tariff as provided above is effective from October 1,1994 and prior thereto the tariff was Re. 1.03p., the tariff as quoted in the impugned order. Such tariff as mentioned above is obviously to cover risk of goods of the Small Scale Industries. Annexure C-2 is the insurance policy issued for Rs. 2 lacs and the tariff charged is @1.03%, Rs. 206/-. Out of the aforesaid amount some rebate of 5%, Rs. 10/- was allowed and premium charged was 196.00. If policy "C was to be issued the tariff is more than Rs. 3/- as shown in the tariff book produced by Counsel for the appellant. From the amount of tariff charged, as per instructions referred to above, it was policy "A" which was to be issued and not policy "C as the amount insured was less than Rs. 10 lacs. By issuing a wrong policy the Insurance Company cannot shed responsibility of covering the risk of loss of floods, which on the basis of the tariff charged, the risk was covered in the case of small scale industries. We find no merit in this appeal and the same is dismissed. Order of the District Forum granting compensation is affirmed. The appellant would pay for costs of the appeal another Rs. 500/- to the complainant. Appeal dismissed.