

(2009) 08 SC CK 0133

In the Supreme Court Of India

Case No : Civil Appeal No. 5547 of 2009 (Arising out of S.L.P. (C) No. 887 of 2009)

Noor Ali

APPELLANT

Vs

National Insurance Co. Ltd.

RESPONDENT

Date of Decision : 17-08-2009

Acts Referred:

Consumer Protection Act, 1986 — Section 12

Citation : (2009) 2 OLR 694 : (2009) 13 SCALE 78 : (2009) 17 SCC 565

Hon'ble Judges : G. S. Singhvi, J;B. N. Agrawal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. Heard learned Counsel for the parties.

3. The appellant is engaged in the business of motor parts. He took fire insurance policy for the period from 18th July, 2003, to 17th July, 2004 for a sum of Rupees ten lakhs. On the night intervening 3rd/4th August, 2003, at about 11.00 p.m., a fire incident took place in which the appellant's goods and shops were damaged. On receipt of intimation from the appellant, the respondent deputed a Surveyor and Loss Agent, Shri K.B. Mahajan, who after assessment, submitted report dated 15th December, 2003. Shri Mahajan assessed the loss to the appellant at Rs. 1,79,111/-. Thereafter, the Insurance Company released Rs. 1,21,117/- in favour of the appellant as full and final settlement of his claim. The appellant accepted the amount under protest. This was clearly recorded in the form of endorsement made on letter dated 17th March, 2004 written by the Branch Manager of the respondent to the Senior Manager, Bank of Baroda.

4. Feeling aggrieved by the respondent's refusal to reimburse the loss of Rupees eight lakhs which, according to the appellant, was suffered by him in the fire accident, he filed a complaint u/s 12 of the Consumer Protection Act, 1986. The

respondent disputed the claim of the appellant and averred that in view of the report of the surveyor, he was not entitled to anything over and above what was already paid. The respondent also took up the plea that after having accepted the amount of Rs. 1,29,117/- in full and final settlement of his claim, the appellant was not entitled to claim higher compensation. The appellant produced as many as twenty documents which included report of the Fire Officer, Sultanpur, the bank statement for the last three years, stock statement for the last three years along with covering letter and a list of 168 duplicate cash memos and three balance sheets for the years 2001-2003. After considering the entire record, the District Consumer Disputes Redressal Forum, Sultanpur, [for short, "the District Forum"] awarded compensation of Rs. 6,70,883/- with interest at the rate of twelve per cent per annum from the date of complaint, i.e., 5th May, 2004. Damages of Rs. 10,000/- and litigation expenses of Rs. 200/- were also awarded to the appellant with a stipulation that if the amount is not paid, then the rate of interest shall be fifteen per cent instead of twelve per cent per annum.

5. On an appeal preferred by the respondent, the State Consumer Disputes Redressal Commission [for short, "State Commission"], set aside the order of the District Forum. When the matter was taken up by the appellant in revision, National Consumer Disputes Redressal Commission [for short, "National Commission"], directed the respondent to pay Rs. 50,000/- by observing that the said amount had been deducted from the assessment made by the Surveyor's report without any justification.

6. From a bare perusal of the impugned orders of the State Commission and the National Commission, it is clear that neither of them considered the documents produced by the appellant which had been considered by the District Forum while awarding compensation of Rs. 6,70,883/- and on that account cause of the appellant has been seriously prejudiced.

7. Accordingly, the appeal is allowed, impugned orders passed by the State Commission as well as the National Commission are set aside and the matter is remitted to the State Commission to consider the appeal in accordance with law after giving opportunity of hearing to the parties.