(2015) 03 NCDRC CK 0178

In the National Consumer Disputes Redressal Commission

ORIENTAL INSURANCE CO LTD — APPELLANT

Vs

Hajari Lal Jat — RESPONDENT

Date of Decision : 23-03-2015

Acts Referred:

Citation : (2015) 03 NCDRC CK 0178

Hon'ble Judges : V.K.JAIN , B.C.Gupta J.

Final Decision : Petition disposed

Judgement

1. THE complainant, owner of vehicle No.RJ40PA3391 got it insured with the Oriental Insurance Co. Ltd. for the period from 08 -02 -2006 to 07 -02 -2007. On 15 -10 -2006, the said vehicle intruded in the soil when the complainant was going to Jaipur and had left the vehicle temporarily due to filled up water in the farm. He was unable to take the vehicle out of the soil and, therefore, returned to his house. When he came back after some time the vehicle was found burnt. The fire according to the complainant, could not be extinguished and the vehicle got completely burnt. On intimation having been given to the insurance company a surveyor was appointed to assess the damage to the complainant. The surveyor inspected the vehicle and submitted his report to the insurance company. The claim, however, was not honoured by the insurance company, on the ground that the complainant had not submitted the desired documents in support of the claim preferred by him. The file of the complainant was, therefore, closed as ''no claim''. Being aggrieved the complainant approached the concerned District Forum seeking payment of Rs.13,07,400/ - towards his loss on account of burning of the vehicle. He also sought Rs.50,000/ - as compensation and Rs.1,100/ - as the cost of litigation.

2. THE complaint was resisted by the insurance company inter alia on the ground that the ICICI Bank which had financed the purchase of the vehicle had not been impleaded as a party to the complaint. It was also stated in the reply that initially the insurance was allowed at the cost of Rs.9,99,400/ -. The complainant, thereafter, submitted a letter increasing the cost of the vehicle and

also deposited a cheque of Rs.3,921/ - towards additional premium. The said cheque, however, was dishonored. It was further stated in the reply that despite letters from the insurance company the complainant had failed to submit the requisite documents for the purpose of verification of his claim.

3. VIDE its order dated 29 -08 -2011 the District forum directed the insurance company to deduct a sum of Rs.80,000/ - from the total claimed amount of Rs.13,07,400/ - and pay the balance amount to the complainant along with interest at the rate of 9% per annum. A sum of Rs.10,000/ - was awarded to the complainant towards cost of litigation. The District Forum also directed the complainants to provide all the documents to the insurance company for the purpose of inspection by it. Being aggrieved from the order of the District Forum the insurance company approached the concerned State Commission by way of an appeal. The said appeal having been dismissed vide impugned order dated 03 -06 -2014, the said company is before us by way of this revision petition.

4. ONLY two contentions have been raised before us by the learned counsel for the petitioner company. His first contention is that since the complainant did not produce the original documents such as permit, fitness certificate, registration certificate and driving licence, for the purpose of verification by the insurance company, the State Commission was not justified in rejecting the appeal. We, however, find that the District Forum directed the complainant to produce the requisite documents for the purpose of inspection by the insurance company. We make it clear that no amount shall be paid by the insurance company to the complainant unless original documents referred above for the relevant period are produced before it, by the complainant, for the purpose of verification by the insurance company.

5. THE second contention of the learned counsel for the insurance company is that in view of the report of the surveyor dated 23 -12 -2006 assessing the loss at Rs.7,99,091.05/ - in case the vehicle was to be got repaired and at Rs.5,01,160.79/ - in case the complainant was willing to accept the cash loss settlement, the District Forum and the State Commission were not justified in directing payment of the entire claimed amount after deducting a sum of Rs.80,000/ - from it. We are in agreement with the learned counsel for the insurance company. The report of the surveyor would show that he had examined the damaged part and computed loss to the insured, keeping the damaged part in view. The surveyor also allowed depreciation as per the terms of the policy. The report shows that the rates of spare parts were considered by the surveyor as per dealer''s price list, whereas the labour charges were allowed as prevailing in the Jaipur Market. In these circumstances, the District Forum had no justification to direct payment of the entire amount deducting only a sum of Rs.80,000/ - from it.

6. WE are also in agreement with the learned counsel for the petitioner company that in case the complainant does not opt for cash loss settlement and wants to go in for the repair of the vehicle the payment of Rs.7,99,091.05/ - can be made

to him only after the vehicle is actually got repaired by him, and requisite documents evidencing payment of not less than Rs.7,99,091.05/ - is submitted to the insurance company. He further states that in this case the vehicle was not actually got repaired by the complainant since it was seized by the financer ICICI Bank.

7. IN these circumstances we dispose of the revision petition with the following directions: (i) if the complainant wants to accept the cash loss settlement, a sum of Rs.5,01,160.79/ - shall be paid to him by the insurance company along with interest @9% per annum from the date of filing of the complaint and in that case the insurance policy has to be surrendered by him to the petitioner company. If, however, the complainant does not accept the cash loss settlement he can get the vehicle repaired, at his own cost and submit invoices as well as supporting documents to the insurance company showing expenditure of not less than Rs.7,99,091.05/ -. In that case the insurance company after requisite verification, shall pay a sum of Rs.7,99,091.05/ - to him along with interest at the rate of 9% per annum from the date on which the complainant incurs expenditure on the repair of the vehicle;

(iii) no payment in terms of this order shall be made by the complainant unless he produces the original permit, fitness certificate, registration certificate and driving license before the insurance company for the purpose of verification.

8. THE complainant shall exercise his option in terms of this order within three months from today failing which the insurance company shall be entitled to treat the matter as closed.

