courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 26/08/2026

(1996) 05 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

ORIENTAL INSURANCE CO. LTD. APPELLANT

Vs

MALATI PAUL RESPONDENT

Date of Decision : 09-05-1996

Acts Referred:

Citation : 1996 0 NCDRC 92 : 1996 2 CPJ 109

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA , R.THAMARAJAKSHI J.

Advocate : G.N.RATHI , RAJEEV NANDA , T.SRIDHARAN

Judgement

1. THIS is an appeal by the Oriental Insurance Company Ltd. against the order dated 11.10.93 of the State Consumer Disputes Redressal Commission, Tripura in Complaint No. C-6/93 directing the appellant herein (opposite party before the State Commission) to pay to the respondent-complainant a sum of Rs. 3.00 lakhs together with interest and costs of Rs. 1,000/-.

2. THE complainant, proprietor of M/s. Joga Maya Rubber Bagan. West Tripura was covered by an insurance policy with the appellant-opposite party for fire accident for Rs. 7.00 lakhs for a period of one year from 29.3.84 which was renewed for a further period of one year from 29.3.85. The insurance policy was in the name of Tripura Grammin Bank which was the financier of the complainant. On 29.1.86, the rubber plantation was gutted by fire. On 30.1.86 a claim was made by the complainant on the opposite party for an amount of Rs. 7.00 lakhs. TTe opposite party got the damage surveyed on 25.2.86. The Surveyor sent his report on 30.7.87 to the opposite party''s office at Gauhati assessing the damage at Rs. 65,000/- inter alia indicating that the age of the plants at the time of the incident was less than 3 years i.e. 2x/i years, which absolves the opposite party from any liability as per the Indemnity Clause (i) of the policy. The complainant had given proof of the age of the rubber plants as 5 years and 11 months from the Tripura Forest Development Plantation Corporation Ltd. but no payment was made by the opposite party. The complainant issued a demand notice to the opposite party but to no effect.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-...

However, the opposite party''s branch office at Tripura informed the Branch Manager of the Tripura Grammin Bank through their letter dated 3.3.92 that the opposite party had already taken up the matter for early disposal, and requested for time. When the opposite party did not settle the claim even thereafter, the complainant filed a complaint before the State Commission for compensation of Rs. 5,90,684/-as damages for the losses caused and for interest which the complainant had paid to the financing Bank etc. The State Commission took note that there were two fire incidents, one on 24.1.85 affecting 150 plants the claim for which was withdrawn by the complainant and the other on 29.1.86 for which the claim for 1850 plants was pressed. The Commission referred to the aforesaid letter dated 3.3.92 of opposite party''s branch office at Tripura to the Tripura Grammin Bank that the matter was under consideration, and relying on certain decisions of the National Commission dismissed the contention of the opposite party that the complaint was time barred. The fact that the insurance policy was not issued by the opposite party inspite of request made by the insured was also noted. The State Commission went into the basis of the survey report which had calculated the loss at Rs. 65,000/- and observed that no evidenciary document/ paper accompanied the report of the Surveyor and that the survey report was contradictory and without basis. The Commission pointed out that whereas the Tripura Grammin Bank had indicated the age of the plants as three years in the fire insurance proposal, the Surveyor had stated that at the time of the incident the plants were 2 Â½ years old. It was further noticed that the opposite party did not take any action on the claim of the complainant and even no intimation of repudiation was given to the insured. In the light of the aforesaid and keeping in view the fact that there must have been difference in the growth rates of rubber plants, the State Commission reduced the complainant''s claim for compensation by about 40% and directed the opposite party to pay to the complainant a sum of Rs. 3.00 lakhs as damages under the policy together with interest at 12% per annum w.e.f. 1.1.88 within two months of their order failing which the interest on the total compensation of Rs. 3.00 lakhs would be at 14% till payment and costs.

3. AGGRIEVED by this order, the opposite party have preferred this appeal alongwith an application for condonation of delay; the delay stands condoned. We have heard the Counsel appearing on both sides and gone through the records. In the appeal no new points have been made. Interestingly while reiterating that the complaint is time barred, the appellants have themselves admitted that they could not take a decision in the case; the submission of the appellants that "it was expected of the State Commission despite the fact that the insurer had taken about 7 years in not taking a decision in the matter, to direct the insurer to pay some nominal amount by way of damages for inaction for such a long time and to take a decision in the matter" shows the appellant''s complacency in the matter and nonchalant attitude towards the insured.

4. IT is clear that there has been serious negligence and hence gross deficiency in service on the part of the opposite party on the following counts: (i) having

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-…

accepted the premium for two years, the insurance policy was not issued, (ii) whereas the fire occurred in January, 1986 and the survey report was available with opposite party in July, 1987 itself, no action was taken in terms of critical examination of the report nor any repudiation made, (iii) there was no response whatsoever up to March, 1992 when the appellant requested the complainant for time in settling the claim, and (iv) it was taken for granted that the passage of time in settling the claim will itself lead to award of only nominal compensation by the Adjudicating Forum. The appeal is devoid of merits and we do not find any reason to interfere with the direction of the State Commission. The appeal is therefore, dismissed and the order of the State Commission is confirmed. No costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/oriental-insurance-co-ltd-appellant-…