(2015) 07 NCDRC CK 0127

In the National Consumer Disputes Redressal Commission

Case No : 3669 of 2009

ORIENTAL INSURANCE CO. LTD. APPELLANT

Vs

R.K. DHIR HOSIERY FACTORY RESPONDENT

Date of Decision : 22-07-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 17 - Jurisdiction of the National Commission - Appeals - Jurisdiction of the State Commission

Citation : (2015) 07 NCDRC CK 0127

Hon'ble Judges : V.B. Gupta

Advocate : Vishnu Mehra, Anchit Sharma

Judgement

1. Heard.

2. Brief facts are that Respondent/Complainant had obtained House Breaking and Burglary Insurance Policy from Petitioner /Opposite Party for the period 3.2.2001 to 2.2.2002 and paid a premium of Rs.2,018/-. Cover Note No.655553 was issued but petitioner failed to issue the insurance policy. A theft took place in the respondent''s factory on 29.9.2001 and FIR was lodged with the police on 1.10.2001. The claim was also lodged with the respondent for Rs.1,42,970/-, vide letter dated 1.10.2001. Protest was lodged with the petitioner for not settling the claim vide registered letters dated 26.7.2002 and 31.7.2002. In reply to letter dated 31.7.2002, petitioner office at Delhi replied, that they had instructed their Ludhiana office to settle the claim. Inspite of that, the claim had not been settled. Respondent filed consumer complaint before District Forum, Ludhiana, praying for directions to the petitioner, to pay a sum of Rs.1,42,970/- alongwith interest @ 18% per annum from 1.10.2001 and also Rs,5,000/- towards compensation.

3. Petitioner in its reply controverted the assertions made in the complaint. It is stated that a surveyor was appointed who in its report has observed that the

theft had been committed by the servant of the complainant. Therefore, the claim was repudiated. Thus, complaint is liable to be dismissed.

4. District Forum, vide order dated 19.4.2004, allowed the complaint and assessed the loss at Rs.70,112/- and directed the petitioner to pay an amount of Rs.70,112/-.

5. Being aggrieved, petitioner filed First Appeal No.597 of 2004, whereas respondent filed First Appeal No.633 of 2004 against the order of the District Forum. The State Commission vide common impugned order dated 9.6.2009, partly allowed the appeal filed by respondent and directed the petitioner to pay Rs.70,112/- with interest @ 7?% per annum from 4.3.2002 and also to pay cost of Rs.2,000/- to the respondent. The State Commission dismissed the appeal filed by the petitioner.

6. Now, petitioner has filed this revision.

7. In the present case, theft took place on 29.9.2001. About 14 years have lapsed and litigation between the parties is going on for last above 14 years. There are concurrent findings of facts given by both the fora below against the petitioner. Even otherwise, only paltry amount of Rs.70,112/- plus interest etc. is involved in this case. Hence, this Commission is not inclined to entertain this petition, in view of the decision of Apex Court in "Gurgaon Gramin Bank Vs. Khazani and another, IV (2012) CPJ 5 (SC) , where Apex Court observed; "2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers'' skin. Judicial system is over-burdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects large number of persons or the stakes are very high, Courts jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India and this case falls in that category."

The Apex Court further held;

"10. The Chief Manager stated in the affidavit that no bill was raised by the counsel for the bank for conducting the matter before the National Consumer Dispute Redressal Commission. We have not been told how much money has been spent by the bank officers for their to and fro journeys to the lawyers'' office, to the District Forum, State Forum, National Commission and to the

Supreme Court. For a paltry amount of Rs.15000/-,even according to the affidavit, bank has already spent a total amount of Rs.12,950/- leaving aside the time spent and other miscellaneous expenses spent by the officers of the bank for to and fro expenses etc. Further, it may be noted that the District Forum had awarded Rs.3,000/- towards cost of litigation and compensation for the harassment caused to Smt. Khazani. Adding this amount, the cost goes up to Rs.15,950/-. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for Rs.15,000/-.

11. Learned counsel appearing for the bank, Shri Amit Grover, submitted that though the amount involved is not very high but the claim was fake and on inspection by the insurance company, no tag was found on the dead body of the buffalo and hence the insurer was not bound to make good the loss, consequently the bank had to proceed against Smt. Khazani.

12. We are of the view that issues raised before us are purely questions of facts examined by the three forums including the National Disputes Redressal Commission and we fail to see what is the important question of law to be decided by the Supreme Court. In our view, these types of litigation should be discouraged and message should also go, otherwise for all trivial and silly matters people will rush to this court.

13. Gramin Bank like the appellant should stand for the benefit of the gramins who sometimes avail of loan for buying buffaloes, to purchase agricultural implements, manure, seeds and so on. Repayment, to a large extent, depends upon the income which they get out of that. Crop failure, due to drought or natural calamities, disease to cattle or their death may cause difficulties to gramins to repay the amount. Rather than coming to their rescue, banks often drive them to litigation leading them extreme penury. Assuming that the bank is right, but once an authority like District Forum takes a view, the bank should graciously accept it rather than going in for further litigation and even to the level of Supreme Court. Driving poor gramins to various litigative forums should be strongly deprecated because they have also to spend large amounts for conducting litigation. We condemn this type of practice, unless the stake is very high or the matter affects large number of persons or affects a general policy of the Bank which has far reaching consequences.

14. We, in this case, find no error in the decisions taken by all fact finding authorities including the National Disputes Redressal Commission. The appeal is accordingly dismissed with cost of Rs.10,000/- to be paid by the bank to the first respondent within a period of one month. Resultantly, the Bank now has to spend altogether Rs.25,950/- for a claim of Rs.15,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins."

8. Above quoted observations of the Apex Court, with all force are fully applicable to the facts and circumstances of the present case.

9. Since, paltry amount of Rs.70,112/- only plus interest is involved, therefore,

this commission is not inclined to entertain this petition. However, the question of law raised in this petition, if any, is kept open to be decided in an appropriate case, where stakes are high.

10. The present revision petition stand disposed of accordingly.

11. No order as to cost.

12. Dasti.

