(2015) 07 NCDRC CK 0101

In the National Consumer Disputes Redressal Commission

Case No : 2924 of 2006

ORIENTAL INSURANCE CO. LTD. APPELLANT

Vs

SMT. SALOCHANA SHARMA RESPONDENT

Date of Decision : 23-07-2015

Acts Referred:

Consumer Protection Act, 1986, Section 21, Section 19, Section 15, Section 17 - Jurisdiction of the National Commission - Appeals - Appeal - Jurisdiction

Citation : (2015) 07 NCDRC CK 0101

Hon'ble Judges : V.B. Gupta

Advocate : P.K. Seth, Shrey Mehta

Judgement

1. Heard.

2. Case of Respondent/Complainant is that her husband, Sh. Yashpal Sharma (since deceased) had obtained an Insurance Policy from the Petitioner/Opposite Party, for his Scooter with effect from 24.4.2004 to 23.4.2005 and had paid a premium of Rs.480/- for covering personal accident of the owner-driver also for a sum insured of Rs.1 lac, as provided in compulsory insurance provisions of India Motor Tariff.

3. It is alleged, that on 15.07.2004 the scooter of her husband was hit by some unknown vehicle and was seriously injured. Later on he succumbed to his injuries on 16.7.2004. FIR No.130 dated 16.7.2004 was lodged. A personal accident claim was lodged with the petitioner along with necessary documents. The same was illegally repudiated by the petitioner, vide letter dated 24.01.2005. Therefore, alleging deficiency in service on part of the petitioner, respondent filed consumer complaint before the District Forum.

4. Petitioner in its written statement denied all the allegations, stating therein that at the time of accident deceased-Yashpal Sharma was standing on the road and was watching the transformer being repaired. Thus, accident was not

covered under the ambit of insurance policy. It is further

stated, that insurance policy covered only risk involved, while in the process of driving the vehicle or mounting or dismounting from the vehicle and not otherwise.

5. District Forum vide order dated 22.2.2006, dismissed the complaint.

6. Being aggrieved, respondent filed an appeal before the State Consumer Disputes Redressal Commission, UT, Chandigarh (for short, ''State Commission''), which vide impugned order dated 08.07.2006, accepted the appeal with cost of Rs.10,000/- and respondent was awarded a sum of Rs.1 lac with interest @ 9% after two months from the date of death of deceased i.e. 16.7.2004.

7. Hence, this revision.

8. Respondent''s husband died in the year 2004. The consumer complaint was filed in the year 2006. Thus, this litigation is going on for last about 9 years. Even otherwise, only paltry amount of 1 lac plus interest and cost, are involved in this case.

9. Hon''ble Apex court in Gurgaon Gramin Bank Vs. Khazani and Another, IV (2012) CPJ 5 (SC) has 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 15,000/-even according to the affidavit, bank has already spent a total amount of 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 3,000/-towards cost of litigation and

compensation for the harassment caused to Smt. Khazani. Adding this amount, the cost goes up to 15,950/-. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for 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 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 25,950/- for a claim of 15,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins ."

10. Above quoted judgment is fully applicable to the facts and circumstances of the present case.

11. Therefore, this Commission is not inclined to entertain this petition, since paltry amount of about Rs.1 lakh is involved and matter is pending for last about

9 years. However, the question of law raised in this petition is kept open, to be decided in an appropriate case where the stakes are high and amount involved is substantial.

12. With these observations, present revision petition stand disposed of.

13. Dasti.

