

(2000) 01 GAU CK 0022
In the Gauhati High Court
Case No : Consumer Appeal No. 13 of 1999

Oriental Insurance Co.Ltd.	Vs	APPELLANT
Tipu Saha		RESPONDENT

Date of Decision : 29-01-2000

Acts Referred:

Citation : (2000) 1 GLJ 627

Hon'ble Judges : J.N.Sarma, J and D.Dutta, J

Bench : Full Bench

Advocate : T.Baidya , S.K.Goswami , G.N.Sahewalla, Advocates appearing for Parties

Judgement

J. N. Sarma, President.

1. Heard Mr. SK Goswami, learned Advocate for the appellant and Mr. GN Sahewalla. learned Advocate for the respondent. The reliefs granted by the District Consumer Forum, Karbi Anglong are as follows:

(i) Insurance company will pay to the complainant Rs.5,000 (Rs five thousand) only as compensation for "deficiency of service" caused by the insurance company within 31.10.98.

(ii) Insurance company will pay to the complainant Rs.3,000 (Rs three thousand) only towards cost incurred by complainant in contesting this case within 31.10.98.

(iii) The insurance company will dispose of the claim of the complainant afresh within 31.12.98 applying principle of natural justice and equity on lines similar to those of Tapan Saha.

(iv) The insurance company will pay interest @ 12% PA to the complainant on the "finally settled amount" with effect from 01.12.94 till final disposal/settlement of the claim by insurance company (allowing period) from 13.08.94) to 30.11.94 as reasonable period for disposal of claim). The amount shall be

payable within 31.12.98.

2. After hearing the learned counsel for the parties and on perusal of the materials on record, we do not find any justification to saddle the insurance company with compensation of Rs.5,000 for deficiency of service. There is also no justification to pay costs of Rs.3,000. The costs shall stand at Rs.1,000. Regarding payment of interest as mentioned in item No.(iv) the amount of interest shall be 9% per annum and not 12 % per annum as decided by the Apex Court in (1996) 6 SCC 428 (United India Insurance Co Ltd vs. MKJ Corporation) where the Apex Court pointed out that

“in common parlance, when the insured respondent is deprived of the right to enjoy his money or invest the money in business, necessarily the loss has to be compensated by way of payment of interest by the insurance company. We are informed that as per the directions of the Govt of India the appellant insurance

company has no option but to invest the money in the securities specified by the

Govt of India under which the insurance company is securing interest on investment at the rate of 11.3% per annum. Under these circumstances, the appellant insurance company is liable to pay interest at 12% per annum from 1.1.1991 till date of payment. It is then contended that as per the policy, the respondent is entitled to consequential loss as per the independent policy. The Commission no doubt did not give any independent reason for the same but all the claims were heard and disposed of together. Under these circumstances, we are of the view that the claims must be deemed to have been rejected.”

3. In that view of the matter, we fix interest @ 9% per annum. The matter shall be disposed of by the insurance company within a period of three (3) months. The complainant shall cooperate with the insurance company in assessing the demand of compensation. In deciding the amount of compensation the insurance company shall take into consideration all the documents produced by the complainant in support of his claim. The insurance company will have the liberty to fix the compensation on the basis of documents/materials produced by the complainant.

4. The appeal shall stand disposed of accordingly.