
(2012) 11 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

Panipat Thermal Power Station Hpgcl

APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD.

RESPONDENT

Date of Decision : 29-11-2012

Acts Referred:

Citation : 2012 0 NCDRC 897 : 2013 1 CPJ 114

Hon'ble Judges : K.S.CHAUDHARI , SURESH CHANDRA J.

Final Decision : Petition dismissed

Judgement

1. THIS revision petition has been filed against the order dated 30.7.2012 passed by the learned Haryana State Consumer Disputes Redressal Commission, Panchkula (in short, "the State Commission ") in F.A. No. 1271/2011 -New India Assurance Co. Ltd. v. Panipat Thermal Power Station, by which while accepting appeal, order of District Forum was set aside and complaint was dismissed.

2. BRIEF facts of the case are that complainant/petitioner issued a work order on 6.1.2005 for Standard Fire Insurance of Unit-7 in favour of respondent-opposite party as leader with 40% shares and M/s. United India Assurance Co. with 30% share, M/s. National Insurance Co. with 15% share and M/s. Oriental Insurance Co. Ltd. with 15% share. Opposite party issued Policy No. 353900 dated 6.1.2005 in favour of the complainant for a period of 1 year. After commissioning of Unit-8, on payment of premium of Rs. 44,88,254 in addition to the premium already paid, insurance coverage of the first policy was extended. Fire incidents took place at the premises of the complainant on 23.7.2005, 5.7.2005, 20.7.2005 and 26.7.2005 and complainant claimed Rs. 70,356, Rs. 11,82,835, Rs. 11,79,581 and Rs. 12,34,432 respectively, but opposite party repudiated claim for the incidents of fire occurred on 23.7.2005 but allowed claim of other 3 fire incidents after deducting Rs. 5 lakh for each claim on the ground that Fire Equipment Accessories (FEA) discount of Rs. 5 lakh in each claim was wrongly given. Later on, vide letter dated 25.7.2008, opposite party informed complainant that Rs. 15.00 lakh has been deducted on account of low claim discount which was wrongly allowed and not on account of FEA. This amount was

not given by the opposite party and vide letter dated 24.4.2009 further claimed Rs. 7,26,042 from the complainant. Complainant filed complaint lodging deficiency in service. Opposite party filed written statement and denied deficiency in service and further alleged that as losses were caused in the year 2005 and amount of Rs. 15.00 lakh was deducted in the year 2007, complaint filed in the year 2009 was time barred. Learned District Forum after hearing both the parties allowed complaint and directed opposite party to pay Rs. 15.00 lakh along with 8% p.a. interest against which appeal filed by the opposite party was accepted by impugned order. Heard learned Counsel for the petitioner and perused record at admission stage.

3. LEARNED Counsel for the petitioner submitted that learned State Commission has committed error in allowing appeal and dismissing complaint on the ground that complaint is time barred, hence, notice may be issued to the opposite party.

4. IT is an admitted case of the complainant that incident of fire took place in July, 2005 and opposite party vide its letter dated 30.8.2007 issued cheque for three incidents of fire after deducting Rs. 5.00 lakh in each claim in lieu of discount wrongly given in the policy. Complainant filed complaint on 27.10.2009 i.e. after 2 years and 2 months after deducting Rs. 15.00 lakh from the claim amount and remitting rest of the amount. Under Section 24A of the Consumer Protection Act, complaint has to be filed within a period of two years. Learned State Commission had rightly held that as the complaint has been filed after the prescribed period, the complaint is time-barred and liable to be dismissed. Learned Counsel for the petitioner submitted that complainant was regularly corresponding with the opposite party for remitting balance Rs. 15.00 lakh and vide letter dated 24.4.2009 opposite party asked complainant to make payment of Rs. 7,26,042 and in such circumstances, complaint filed on 27.10.2009 is very well within limitation. It is well settled principle of law that after repudiating the claim or making some payment under claim as final payment subsequent correspondence between the parties does not extend period of limitation and complaint has to be filed within the prescribed statutory period of two years. Admittedly, payment was sent by the opposite party to the complainant pertaining to the complainant 's claim on 30.8.2007 and complaint filed on 27.10.2009 is time-barred and learned State Commission has not committed any error in allowing appeal and dismissing complaint.

5. PERUSAL of order of District Forum reveals that District Forum in its order has mentioned objection regarding time-barred complaint taken by the opposite party, but has not dealt this aspect in its order which District Forum should have done.

6. CONSEQUENTLY , order passed by the learned State Commission does not call for any interference and revision petition is dismissed in limine at admission stage. There shall be no order as to costs. Revision Petition dismissed.