(1992) 09 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

PRESSEL (PVT.) LTD. — APPELLANT

Vs

DIVISIONAL MANAGER DIVISION-II NATIONAL INSURANCE CO. LTD. — RESPONDENT

Date of Decision : 08-09-1992

Acts Referred:

Citation : 1992 2 CPR 464 : 1992 3 CPJ 639

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Complaint allowed

Judgement

1. DEFICIENCY in insurance service is grievance, of complainant.

2. MACHINERY belonging to complainant were being transported and the insurer covered the risk of damage or loss during transportation. Some of the goods were found to be damaged and claim was made immediately to the insurer on 4.5.1988. Next day, a surveyor was appointed. Report of the surveyor was received on 25.8.1989. Despite receipt of the report, the claim not having been settled, this complaint has been filed. Case of the insurer is that before the risk was covered there was already movement of the goods and accordingly, it would not be liable to pay any compensation under the policy. Insurer had knowledge of the movement of goods when it covered the risk. Accordingly having led the insured to believe that the goods were covered under the insurance, it cannot go back on the statement on the pretext that goods had already moved by the time the policy was accepted.

We called upon the insurer to produce a certified copy of the surveyor''s report to find out the actual damage assessed since neither insurer not insured doubted the correctness of the surveyor''s report at any stage. We find that the surveyor has reported that the loss is to the extent of Rs. 22,500/- . On 3.1.1991 long after one and half years after, the claim was repudiated. No explanation has been given for the delay in repudiation. The ground of repudiation that the goods had already moved when the policy was accepted, is unreasonable since it was incumbent on the insurer to examine the goods ready for transportation before accepting the policy. It is stated by Mr. Ray that the money was deposited much after the day when the risk was covered. It was open to insurer to cover the risk from the date the money was received. Having covered the risk from an earlier date, the insurer cannot go back and urge before the Commission that the policy is bad on that account. Repudiation is thus unreasonable and there is deficiency in service.

3. IF the insurer would not have produced the surveyor''s report before us, we would have awarded compensation as claimed which would have been exemplary. Though late, good sense has prevailed on the insurer to produce the surveyor''s report for quantification or compensation. Litigant''s spirit, which is usually found with opposite parties before this Commission, is absent in this case. In that view of the matter, we are inclined to direct the insurer to pay compensation of Rs. 22,500/- to complainant, as assessed by the surveyor, within one month from today, failing which the entire amount shall carry interest at the rate of 18 per cent per annum from the date the notice was served on the insurer on 21.2.1992 till the date of payment. In result, complaint is allowed with the aforesaid direction. Complaint allowed.

