(1995) 04 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

RADHA KRISHEN GOJA — APPELLANT

Vs

Oriental Insurance Co. Ltd. — RESPONDENT

Date of Decision : 25-04-1995

Acts Referred:

Citation : 1995 3 CPJ 547

Hon'ble Judges : Malik Sharief-Ud-Din , KrRameshwar Singh J.

Final Decision : Complaint allowed with costs

Judgement

1. THE complainant had insured the goods of his Kiryana Shop situated at New Chowk Anatnag under Policy No. 46/90/00079 for a sum of Rs. 50 lakhs. THE insurance period was valid between 27th of April, 1989 to 26th April, 1990. In a devastating fire in January, 1990 the whole shop including the goods were gutted. THE Insurance Company was informed and it deputed a Surveyor namely Mr. M.K. Wali who reported that the loss was to the tune of Rs. 1,39,497/-. This report was submitted on 2nd of July, 1990 but till date despite numerous representations the Insurance Company failed to pay the claim.

2. THE stand of the Insurance Company and the objections is contradictory inasmuch as in para 6 it states that the Surveyor''s report is not on record and Mr. M.K. Wali was directed to submit the report though in the same breath it states that according to the Surveyor''s report the loss was only to the tune of Rs. 13,454/-. It has further denied that the Surveyor has placed the loss at Rs. 1,39,497/-. We are surprised at the type of stand taken by the Insurance Company. If the Insurance Company states that the Surveyor''s report has not been received, how then it has the cheek and guts to assert that Surveyor had placed the loss only at Rs. 13,454/-. Our attention was invited to two documents, one addressed by the Insurance Company to Mr. M.K Wali, Surveyor dated 27.9.93 and the other addressed by the Surveyor to the Insurance Company. These documents were on record and their truthfulness is not denied. Even on 27.9.93 the Insurance Company writes to the Surveyor that even though the incident took place on 29th of January, 1990 he has not finalised his report. In

reply to this the Surveyor has reported that the report has since been submitted and the loss has been assessed at Rs. 1,39,497/-. It appears to us that after receiving this document the Insurance Company felt into unconcern for the reasons best known to it and has delayed the payment from January, 1990 till date. The defence taken by the Insurance Company makes no sense. Under these circumstances we have to base our assessment on the letter written to the Insurance Company by Mr. M.K. Wali, Surveyor whose report has very cleverly been not acted upon by the Insurance Company and has instead suppressed the same.

We, therefore, allow this complaint which is also supported by the detailed testimony of Radha Krishen and one of his witness Hirdy Nath and direct Insurance Company to pay to the complainant a sum of Rs. 1,39,497/- with 18% interest thereon from the date of incident till the date of final payment. We also assess the costs of litigation at Rs. 15,000/- which will include the compensation for harassment. The total amount shall be paid to the complainant within 30 days failing which the complainant shall be entitled to invoke Section 21 of the J & K State Consumers Protection, Act.

3. THE complaint is disposed off. Complaint allowed with costs.

