(1999) 02 NCDRC CK 0025

In the National Consumer Disputes Redressal Commission

RAKESH KUMAR APPELLANT

Vs

Oriental Insurance Co. Ltd. RESPONDENT

Date of Decision : 22-02-1999

Acts Referred:

Citation : 1999 2 CLT 394 : 2000 2 CPJ 186

Hon'ble Judges : A.L.Bahri , Davinder Kaur Bhamrahs J.

Final Decision : Appeal of Insurance Company dismissed

Judgement

1. VIDE this order two appeals (Nos. 453 of 1997 and 508 of 1997) are being disposed of. The first appeal has been filed by the complainant Rakesh Kumar claiming interest and costs on the amount already awarded by the District Forum whereas the second appeal has been filed by the Insurance Company for setting aside order of the District Forum dated March 18, 1997. The District Forum allowed a sum of Rs. 32,505/- to the com-plainant - Rakesh Kumar to be paid by the Insurance Company.

2. RAKESH Kumar had obtained an insurance policy covering risk of his motor vehicle - Maruti van No. PB-08-A-0078 on March 2, 1994 for a period of one year. The aforesaid van was involved in an accident which occurred on December 3, 1993. Report with the Police Station, Dhuri was lodged on December 4, 1993. The Insurance Company was also informed. A sum of Rs. 40,000/- was spent by the complainant for repairing the vehicle. The Insurance Company did not settle the claim and arbitrarily repudiated the same on the vague allegations that driving licence of the driver Jaspal Singh was fake. This led the complainant RAKESH Kumar to approach the District Forum for the relief. The Insurance Company as usual took up the plea that the repudiation of the claim was bona fide made on the basis of a report issued by the Licensing Authority that the driving licence of Jaspal Singh was fake. Both the parties led their evidence on affidavits and documents on the basis of which the impugned order was passed. Ex. R1 is the so called report of the Licensing Authority, Cuttack, on the basis of which the Insurance Company had repudiated the claim. Apart from the fact that

it did not contain any despatch number and as to whether the same was issued by the Regional Transport Office or Office of the Licensing Authority, Cuttack, even reading the contents of the letter a finding cannot be arrived at that the licence of Jaspal Singh was not issued by the aforesaid Licensing Authority. Thus, it is considered appropriate to reproduce the contents of this letter : "With reference to letter dated 16.5.1994 this is to inform you that no such driving licence No. mentioned below has (not) been issued to any body as per our office record and D.L. No. 2756/82 has not been issued to Mr. Jaspal Singh. 1.Name Suresh Kumar D.L. No. C-8095/86 2.Name Karam Singh D.L. No. K-3444/82 3.Name Sri Gulak Singh D.L. No. G-5740/Cuttack/89. This is for your information and necessary action."

The District Forum noticed cutting in this letter of the word ''not'' in between ''has'' and ''been'' as underlined above in third line and we also notice as above. This would mean that to the three persons mentioned at Sr. 1, 2 and 3, driving licences were not issued. If that is so, the exception referred to Mr. Jaspal Singh would suggest that he was issued such a licence and the word not in the fourth line was subsequently added which is out of alignment and is underlined. This is the only plausible interpretation of the aforesaid letter. The contention of Counsel for the Insurance Company that fourth line "DL No. 2756/82 has not been issued to Mr. Jaspal Singh" should be read in isolation without considering other contents of the letter cannot be accepted. There is no indication from rest of the contents of the letter to hold that to such persons driving licences were issued. Furthermore, when two interpretations of the contents of the letter are available as discussed above, the one interpretation in favour of the consumer can well be accepted. On the basis of Ex. R1 the Insurance Company arbitrarily repudiated the claim. No body had put initials on the scoring of the words referred to above. The District Forum thus rightly held that on the basis of Ex. R1 the claim of the complainant could not be repudiated.

3. THE photocopy of the driving licence of Jaspal Singh was produced, which is Annexure C-6. This shows that the licence was subsequently atleast twice renewed by the Licensing Authorities - one in 1988 and second time in 1991. THE licence purports to be valid upto April, 1994. THE effect of renewal of such driving licences again and again under the provisions of the Motor Vehicles Act was considered in Appeal No. 878 of 1996, Des Raj v. United India Insurance Co. Ltd., and its effect was noticed as under : "THE licence having been validly renewed would be a valid driving licence as at the stage of issuing such a licence, certain formalities are required to be observed under Section 15 of the Motor Vehicles Act. THE fact cannot be lost sight of that the driver may be using the motor vehicle for a number of years and thus knowing driving, gets his licence renewed from a Competent Authority."

Thus the driving licence of Jaspal Singh could not be ignored by the Insurance Company and the repudiation of the claim was arbitrary on that ground also.

4. SINCE the Surveyor had assessed the loss at Rs. 32,505/-, the District Forum

rightly allowed the same. SINCE within reasonable time the claim was not settled by the Insurance Company and the complainant was deprived of the use of the insured amount, he was to be compensated. In the cases of nationalised Insurance Companies as per decision of the Supreme Court in United India Insurance Co. Ltd. v. M.K.J. Corporation, III (1996) CPJ 8 (SC), compensation by way of interest more than 12% cannot be granted. Hence complainant in the present case is held entitled to interest @ 12% per annum on the amount awarded with effect from April 15, 1994 (allowing two months'' time from the report of the Surveyor, Annexure R-3) alongwith costs of litigation of Rs. 2,000/-. The appeal filed by the Insurance Company is dismissed and the appeal filed by the complainant is allowed modifying the order of the District Forum as above. Appeal of Insurance Company dismissed Appeal of complainant allowed.

