

(2014) 12 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

RAMADHAR SINGH

APPELLANT

Vs

Universal Shampi General Insurance Co. Ltd. And Ors.

RESPONDENT

Date of Decision : 19-12-2014

Acts Referred:

Citation : 2015 2 CPJ 398

Hon'ble Judges : SURESH CHANDRA J.

Final Decision : Petition Dismissed

Judgement

1. BRIEFLY stated, the facts leading to filing of this revision petition are that the petitioner owned a tractor which he got insured with the respondent No. 1 Insurance Co. During the period of insurance, the tractor was taken by the Driver and his son on 23.9.2009 to plough the fields. By the time they finished the work, it became dark. They parked the vehicle in front of a hotel and went to have food about 50 ft. away from where the tractor was visible. When they came back, they found that the tractor had been stolen. A police report was lodged and Insurance Co. was also informed but the Insurance Co. did not settle the claim and hence a consumer complaint was filed by the petitioner with the District Forum. On notice, the OP Insurance Co./respondent No. 1 contested the complaint. On appraisal of the evidence adduced by the parties before it and after hearing the respective submissions made by them, the District Forum dismissed the complaint vide its order dated 2.3.2012. Aggrieved of this order, the petitioner/complainant filed an appeal bearing No. 822 of 2012 before the M.P. State Consumer Disputes Redressal Commission, Bhopal. The State Commission also dismissed the appeal vide its impugned order dated 3.2.2014 and upheld the order of the District Forum dismissed the complaint. It is under these circumstances that the petitioner has now filed the present petition challenging the impugned order of the State Commission. The petitioner has chosen to remain absent but has filed his written arguments based on which he has requested this Commission to admit the revision petition.

2. WE have considered the written arguments filed by the petitioner and perused

the record. We may note that both the Fora below have returned their concurrent finding of facts while non-suited the claim of the petitioner. The State Commission while dismissing the appeal has made the following observations in support of its impugned order:

"3. The respondent Insurance Company stated on receiving information, an Investigator was appointed who found the theft suspicious. He was neither given the original documents of the tractor nor was he handed over the two keys. They aver that the keys were left in the tractor and the driver and appellant's son went away to have food. As they did not take due care of the vehicle, the claim is not payable.

4. HEARD on admission.

5. THE District Forum has referred to the investigation report which mentions that the appellant's son and his driver left the tractor around 10 p.m. in the field near the road. They then went about 1 km away to have food. It is not disputed that the incident took place on 23.9.2009 and the police report was made on 4.10.2009, after about 10 days. As rightly held by the Forum, had the tractor been within visibility, it would not have been possible to steal it. Therefore, the appellant's contention that they went to a distance of about 50 ft to have food is not believable. The learned Counsel for the appellant has brought to our notice a judgment of this Commission (Late Man Singh through his L.R. Motilal v. Oriental Insurance Co. Ltd., 2013 (1) M.P.H.T. 9 (CPC)), where the tractor was stolen and the Insurance Company were directed to pay the insured amount. The facts of the case are distinguishable. There was no investigation and the payment had not been made because the final report had not been produced.

6. AS the appellant did not take proper care of his tractor and delayed in informing the police, the claim is not payable."

3. WE find that in the given facts and circumstances of this case, both the State Commission and the District Forum have passed fair and just orders. Nothing has been produced by the petitioner which would persuade us to take a different view. Perusal of the revision petition as also the written arguments filed by the petitioner indicate that the petitioner has given very general and vague grounds in support of the revision petition. Regarding the vehicle being left unattended in the open field by the Driver of the vehicle and son of the petitioner who was accompanying him, it is simply stated that all the farmers generally "always leave their tractor on agricultural field and go to have meal". There is no denial against the findings of the Fora below regarding leaving of the keys and also parking of the tractor at a long distance. There is also no denial about the late filing of the FIR.

4. IT has to be appreciated that each case has to be decided on merits keeping in view its peculiar facts and circumstances and no relief can be granted on the basis of generalizations and vague submissions put forth against specific findings. Section 21(b) under which this revision petition has been filed confers

rather limited jurisdiction on this Commission and unless there is some material irregularity, illegality or jurisdictional error, no interference with the impugned order could be justified. This is in line with the ratio laid down by the Apex Court in the case of Mrs. Ruby (Chandra) Dutta v. M/s. United India Insurance Co. Ltd., : II (2011) CPJ 19 (SC) : IV (2011) SLT 303 : (JT) 2011 (3) SC 586, where Hon"ble Supreme Court has observed thus: - - "23. Also, it is to be noted that the provisional powers of the National Commission are derived from Section 21(b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order, and only then, may the same be set aside. In our considered opinion there was no jurisdictional error or miscarriage of justice, which could have warranted the National Commission to have taken a different view than what was taken by the two Forums. The decision of the National Commission rests not on the basis of some legal principle that was ignored by the Courts below, but on a different (and in our opinion, an erroneous) interpretation of the same set of facts. This is not the manner in which provisional powers should be invoked. In this view of the matter, we are of the considered opinion that the jurisdiction conferred on the National Commission under Section 21(b) of the Act has been transgressed. It was not a case where such a view could have been taken, by setting aside the concurrent findings of two Fora."

In view of the above, we do not find any merit in this revision petition and hence dismiss the same in limine but with no order as to costs.