(2014) 10 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

Ranch Manager, United India Insurance Company Limited — APPELLANT

Vs

JOGENDRA SINGH — RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:

Citation : 2014 4 CPJ 637

Hon'ble Judges : V.B.GUPTA , SURESH CHANDRA J.

Advocate : Tajinder Virdi , NIKHIL JAIN

Judgement

1. PETITIONER /Opposite Party has challenged order dated 31.5.2011, passed by State Consumer Disputes Redressal Commission,Uttrakhand, Dehradun, (for short, ''State Commission '') by way of present revision petition filed under Section 21(b) of the Consumer Protection Act, 1986 (for short, ''Act '')

2. BRIEF facts are that Respondent/Complainant purchased a tractor for sum of Rs.3,70,000/ -.The said tractor was comprehensively insured with the petitioner for the period from 8.9.2004 to 7.9.2005. During the intervening night of 31.05.2005/ 01.06.2005, when the tractor was parked inside the house, the same was stolen by some unknown persons. Information whereof, was given by the brother of respondent to the P.S. Bazpur. FIR of the incident was lodged on 10.06.2005. Information regarding theft of the vehicle was given to the petitioner ''s company. After investigation of the matter, when neither the vehicle could be recovered nor any culprit could be traced, the police submitted the Final Report, which was accepted by the court vide order dated 20.02.2006. The claim of the respondent was repudiated by the petitioner on the ground that respondent did not co -operate in searching the culprits and he did not take proper care of the vehicle. Alleging deficiency in service on the part of the petitioner, respondent filed the consumer complaint.

3. PETITIONER it its written statement had taken the plea that the tractor was stolen due to carelessness of the respondent. The respondent never informed the petitioner about the theft of the tractor. The petitioner got intimation of the incident only on 13.06.2005 through the Canara Bank. Since, there was delay in

informing the petitioner about the incident as such respondent has committed the breach of the terms and conditions of the policy. District Consumer Disputes Redressal Forum, Udham Singh, Nagar(for short, ''District Forum '') allowed the complaint vide order dated 27.03.2010, directing the petitioner to decide the claim of the petitioner within 30 days along with Rs.1,500/ - being cost of litigation.

4. AGGRIEVED by the order of the District Forum, petitioner filed an appeal before the State Commission, which dismissed the same vide its impugned order.

5. NOW petitioner has filed this revision.

6. WE have heard the learned counsel for the parties and gone through the record.

7. IT has been contended by learned counsel for the petitioner that respondent had reported about the alleged incident of theft after a delay of 10 days. This conduct of the respondent is in gross violation of terms and conditions of the insurance policy. Thus, the orders passed by both the Fora below are liable to be set aside.

8. ON the other hand, it has been contended by learned counsel for respondent that earlier intimation with regard to the theft of the tractor was given to the police by the complainant on 01.06.2005 itself. Thus, there is no breach of any condition of the insurance policy. In support, learned counsel for respondent has relied upon a decision of this Commission reported as Oriental Insurance Company Vs. Charan Dass (R.P. No.1324 of 2012) decided on 01.08.2012.

9. AS per respondent ''s case, the vehicle in question was stolen on 31st May, 2005/1st June, 2005. The FIR was got registered only on 10.06.2005. Though, respondent in its complaint has averred that intimation about the theft was given to the petitioner also but it has not mentioned the date of said intimation. Be that as it may, the petitioner in its written statement has admitted that intimation was received by it only on 13.06.2005 from Canara Bank.

10. THUS , it transpires form the record that intimation regarding theft was given after 12 days from the date of incident.

11. THIS Commission in New India Assurance Company Ltd. Vs. Trilochan Jane, IV (2012) CPJ 441 (NC) has observed as under; ''''9. In the case of theft where no bodily injury has been caused to the insured, it is incumbent upon the respondent to inform the Police about the theft immediately, say within 24 hours, otherwise, valuable time would be lost in tracing the vehicle. Similarly, the insurer should also be informed within a day or two so that the insurer can verify as to whether any theft had taken place and also to take immediate steps to get the vehicle traced. The insurer can coordinate and cooperate with the Police to trace the car. Delay in reporting to the insurer about the theft of the car for 9 days, would be a violation of condition of the Policy as it deprives the insurer of a valuable right to investigate as to the commission of the theft and to trace/help

in tracing the vehicle.

10. Hon ''ble Supreme Court of India in United India Insurance Company Limited v. M/s. Harchand Rai Chandan Lal reported in JT 2004 (8) SC 8 has held that the terms of Policy have to be construed as it is and nothing can be added or subtracted from the same. The Policy provides that in the case of theft, the matter should be reported ''immediately ''. In the context of a theft of the car, word ''immediately '' has to be construed strictly to make the insurance company liable to pay the compensation ''''.

12. SINCE , there are violations of basic terms and conditions of the insurance policy, both the fora below have erroneously and wrongly allowed the complaint.

13. DECISION of CharanDass (supra) as cited by learned counsel for the respondent, is not applicable to the facts of the present case at all.

14. FOR the foregoing reasons, we allow this revision petition and set aside the impugned order passed by the State Commission as well as by the District Forum. Consequently, the complaint filed by the respondent before the District Forum, shall stand dismissed.

15. NO order as to cost.