

(2006) 09 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

RAVI SHANKAR SHARMA

APPELLANT

Vs

National Insurance Company Limited

RESPONDENT

Date of Decision : 25-09-2006

Acts Referred:

Citation : 2006 4 CPJ 238 : 2007 1 CLT 124

Hon'ble Judges : K.C.Gupta , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been directed by the complainant against order dated 24.3.2006 passed by District Consumer Disputes Redressal Forum-II, U.T., Chandigarh (hereinafter to be referred as District Consumer Forum) vide which the complaint of the appellant Sh. Ravi Shankar Sharma was dismissed being meritless.

2. THE case of the appellant is that he had taken fire policy for his house from the National Insurance Company Limited vide cover note No. 162749 dated 10.4.2001 whose copy is Annexure C-21. THE insurance policy was effective from 10.4.2001 to 9.4.2012. However on the night intervening 27/28.1.2002 an earthquake occurred due to which his house was damaged and intimation were sent to National Insurance Company Limited having its branch at Chandigarh vide letter dated 26.2.2002 whose copy is Annexure C-1. THEreafter Surveyor and valuer was appointed and ultimately the claim was rejected on the ground that loss had not taken place on 27.1.2002 due to earthquake. Alleging deficiency in service, the complaint was filed and prayed that Rs. 1,05,000 be awarded as compensation for the loss caused to the house, Rs. 1,00,000 be further awarded for reduction in the value of the house, Rs. 50,000 for mental agony and harassment and further Rs. 50,000 for unfair trade practice, besides Rs. 10,000 as litigation expenses.

The OPs contested the complaint and stated that neither any earthquake occurred on 27/28.1.2002, nor the house of the appellant was got damaged and as such the appellant was not entitled to any claim. They also stated that the

claim of the appellant was also dismissed on 23.7.2003 by the Insurance Ombudsman.

3. THE parties adduced their evidence by way of affidavits. After hearing the learned Counsel for the parties, the District Consumer Forum vide order dated 24.3.2006 dismissed the complaint being meritless.

4. AGGRIEVED by the said order, the complainant has filed the present appeal. We have heard the Counsel for the appellant Mr. Atul Kaushik, Advocate and carefully gone through the file. In this case, the team of Geologists of the Panjab University, Chandigarh had visited the spot and gave their report Annexure C-19/R-1 as under: "There are cracks in the outer walls as well as in the inner walls of the house. The colony is constructed on river terrace, which provides a basement prone to differential settlements. Similar cracks were found in the outer walls of neighbouring and other houses as well, on query it was found that the cracks were common and were formed even prior to earthquake tremors on January, 2002."

5. IN the light of the aforesaid report of the team of Geologists from the Panjab University, Chadigarh, the National INSurance Company Limited repudiated the claim. It is clear from the report that the cracks in the outer walls as well as in the inner walls of the house situated at Pinjore (Haryana) are common and were formed even prior to earthquake tremors in January, 2002 as the colony has been constructed on river terrace which provides a basement prone to differential settlements.

6. IT may be further mentioned that the appellant had filed complaint with the Insurance Ombudsman, Chandigarh based on the same facts which was dismissed vide order dated 23.7.2003 whose copy Annexure R-3. During the course of proceedings, the Insurance Ombudsman had directed the Insurance Company to be in touch with Meteorological Office and to obtain relevant information as to whether any tremors were at all felt in Pinjore on 27/28.1.2002 or not. The detailed certificate was issued by Meteorological Department, office of the Director General of Meteorology, Government of India, Mausam Bhawan, New Delhi to the effect that there were no tremors in Pinjore due to earthquake that occurred on the night of 27/28.1.2002. Thus, there is no evidence that the damage done to the appellant house was the direct consequence cause of earthquake and cracks in the wall had appeared due to earthquake. Mere newspaper clippings cannot be made the basis to grant compensation. There is also a delay of more than five months in filing the appeal. No reasonable explanation has been offered for the same. If the appellant had changed the address during the pendency of the complaint, then he should have informed the District Consumer Forum. Having not done so, he is to be blamed for not receiving the copy of the impugned order in time. Moreover he had himself stated that he was in constant touch with his Counsel. If he had been in constant touch with his Counsel then he must have come to know within reasonable time say in a week or so that complaint had been dismissed on 24.3.2006.

We concur with the reasoning given by the District Forum and hold that the complaint is meritless. Consequently, it is dismissed in limine.

7. COPIES of this order be sent to the parties, free of charge. Appeal dismissed.