
(2000) 07 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

REGIONAL MANAGER, NATIONAL INSURANCE COMPANY LTD. APPELLANT
Vs
JAI DUTT RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Citation : 2002 1 CPJ 188

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 5.6.1995 passed by District Consumer Forum, Pithoragarh in Complaint Case No. 71 of 1994.

2. THE facts of the case stated in brief are that the complainant got his vehicle No. USZ 9310 insured with the opposite party, National Insurance Company Limited. THE said insurance was effective from 25.5.1990 to 24.5.1991. On 10.6.1990 when the truck was going to Pithoragarh, two kilometres away from Loha Ghat towards Pattan village of Pithoragarh the truck fell down in the "ghat" and was damaged. Information of this incident was given to the Insurance Company for which the Insurance Company appointed Sri B.K. Jaiswal as Surveyor. THEREafter the final survey was done by one Sri Hursat Husain. THE vehicle was towed to Pithoragarh for repairs. A sum of Rs. 59,084/- was spent in repairs of the said vehicle. THE complainant deposited the said bill along with other papers to the Insurance Company but the Insurance Company did not settle the claim. THEy assured that the claim will be finalised and the payment shall be made. Ultimately the claim was not settled and the complaint was filed before the District Forum. The complainant has claimed a sum of Rs. 59,084/- as damages to the truck and Rs. 20,000/- as compensation. Interest at the rate of 18% per annum has also been prayed for.

The opposite party in the written version did not admit the claim of the complainant on account of the fact that full particulars have not been filed by the complainant. It has alleged that the claim is barred by limitation.

3. ACCORDING to the opposite party the incident took place on 10.6.1990 while the claim petition has been filed in June, 1994. Hence it is barred by limitation. No bills have been submitted by the complainant. If the complainant files paper before the Court, full written statement shall be filed by the Insurance Company. Learned District Consumer Forum, after considering the case of the parties came to the conclusion that there was deficiency in service on the part of the Insurance Company and hence it decreed the claim for a sum of Rs. 59,084/- and also awarded compensation of Rs. 20,000/-. This amount was to be paid within a period of three months.

4. AGGRIEVED against the order of the learned District Forum, the Insurance Company has come in appeal and has challenged the correctness of the order passed by the Forum. We have heard the learned Counsel for the parties. Learned Counsel for the opposite party has taken a preliminary objection about the limitation and has argued that the judgment was delivered on 5.6.1995 and a certified copy of which was issued on 7.6.1995 and the appeal was filed on 2.4.1996 after a delay. According to the learned Counsel no application for condonation of delay was moved at the time of filing of the appeal. A perusal of the copy of the judgment will go to show that the judgment was delivered as argued by the learned Counsel for the opposite party on 4.5.1995, the certified copy of which was issued to the complainant on 7.6.1995. The appeal before this Commission was filed on 2.4.1996. No application for condonation of delay was filed at the time of filing of the appeal. It has not been explained as to why this appeal was filed after a lapse of 10 months from the date of issue of certified copy. The limitation for filing appeal is 30 days from the date of service of copy of judgment. When no application for condonation of appeal has been moved by the appellant, it cannot be said that there is any justifiable cause for not filing the appeal within the period of limitation. An application for condonation of delay in filing the appeal has been filed on 17.4.2000 after a lapse of four years. This application for condonation of delay cannot be taken into record because the same should have been filed when the appeal was filed. In view of the facts that there is no explanation for delay in filing the appeal, the appeal is liable to be dismissed on this ground itself. It is not necessary for us to enter into the merits of the case as the appeal filed is beyond the period of limitation and cannot be entertained.

5. THE appeal is, therefore, dismissed as barred by limitation. ORDER

6. THE appeal is dismissed and the judgment and order of the learned District Forum are confirmed. No order as to the costs. Compliance be made within 2 months time.

Let copy as per rules be made available to the parties. Appeal dismissed.