(2017) 05 NCDRC CK 0074

In the National Consumer Disputes Redressal Commission

Case No : 1246 of 2017

RELIANCE GENERAL INSURANCE COMPANY LTD. — APPELLANT

Vs

RAJ KUMAR — RESPONDENT

Date of Decision : 24-05-2017

Acts Referred:

Indian Penal Code, 1860, Section 406 - Punishment for Criminal breach of trust
Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2017 4 CPR 308

Hon'ble Judges : D.K. Jain, M. Shreesha

Advocate : Navneet Kumar, Vikas Bhadana

Judgement

1. By this Revision Petition, under Section 21(b) of the Consumer Protection Act, 1986 (for short "the Act"), Reliance General Insurance Company Ltd. (for short "the Insurance Company"), the sole Opposite Party in the Complaint under the Act, calls in question the legality and correctness of the order dated 20.09.2016, passed by the Haryana State Consumer Disputes Redressal Commission at Panchkula (for short "the State Commission") in First Appeal No. 1092 of 2014. By the impugned order, the State Commission has dismissed the cross Appeals, preferred by the Insurance Company and the Respondent/Complainant.

2. The effect of the order impugned in the Revision Petition is that the order dated 04.08.2014, passed by the District Consumer Disputes Redressal Forum at Rohtak (for short "the District Forum") in Complaint Case No. 565, dated 30.08.2010, preferred by the Complainant, is maintained. By the said order, the District Forum had partly allowed the Complaint, directing the Insurance Company to pay to the Complainant 75% of the IDV of the vehicle, i.e. 14,00,000/-, on non-standard basis, along with interest @ 9% p.a. from the date of filing the present Complaint, i.e. 30.08.2010, till realization, besides 2,000/- towards litigation costs, within one month from the date of completion of the formalities by the Complainant, e.g. transfer of R.C. & subrogation letter etc.

3. The Complaint came to be filed under the following circumstances: 3.1 Being the registered owner of a Tata vehicle, the Complainant had got it insured with the Insurance Company for a sum of 14,00,000/-. The said policy was valid between 16.08.2007 and 15.08.2007. While it was so, the Complainant''s vehicle was taken by one Jai Inder Singh, who misappropriated the same, resulting in lodging of an FIR with the local Police on 15.12.2007, under Section 406 IPC. Immediately, the Complainant also intimated the Insurance Company about the said incident. On submission of the claim form and completion of all the formalities, the Complainant was assured that the claim amount would be disbursed to him within a short period. However, despite repeated requests by the Complainant and submission of documents, as asked for by the Insurance Company, the claim was not settled by the Insurance Company.

3.2 In the said background, alleging deficiency in service and unfair trade practice on the part of the Insurance Company, the afore-noted Complaint came to be filed before the State Commission, praying for a direction to the Insurance Company to pay to the Complainant the assured sum of 14,00,000/- along with interest @ 18% from the date of the claim till final decision in the case.

4. Having suffered the adverse orders by the District Forum and the State Commission, the Insurance Company is before us in the present Revision Petition.

5. It is pointed out by the office that the Revision Petition is barred by limitation, inasmuch as there is a delay of 103 days in filing the same. An Application, seeking condonation of the delay, has also been filed with the Revision Petition. The explanation for the delay, in the narrative form, is contained in paragraphs 4 - 17 thereof, which are extracted below for the sake of ready reference: "4. That the Petitioner is a public limited company and it has offices all over India and while taking decision to file the Revision Petition it has to take several steps and approvals and the case file moves from one office to another and this takes time and this the reason of the said delay.

5. It is submitted that the free copy of the impugned order dated 20.09.2016 was prepared on 28.10.2016 and sent through speed post to the petitioner and the same was received at the local branch of the petitioner on or about 01.11.2016.

6. That it took around a week time to trace the details of the case and the same could be traced on or about 08.11.2016.

7. That the local legal team of the petitioner took some time to peruse the case papers and the orders passed by the Ld. State Commission and sought opinion from the dealing advocate for preferring the appeal in the matter on or about 11.11.2016.

8. That the said counsel of the petitioner took some time to provide the opinion and the same was provided on or about 05.12.2016 to the local team of the petitioner. Then on or about 07.12.2016 the case papers were sent to the Legal

Cell at head office at Mumbai to take final call to prefer appeal in the present case and the said papers were received at Mumbai office of the petitioner on or about 10.12.2016.

9. That the legal cell of the Petitioner took some time to peruse the case papers and sought some inputs and clarification from the local office on or about 14.12.2016 to ascertain merits of the case. The legal team at Chandigarh sought those inputs and clarifications from the advocate situated at Rohtak and the concerned advocate took some time to provide those inputs and clarifications and the same was provided on or about 09.01.2017 and subsequently the requisite inputs and clarifications were immediately provided to the Head Office, of the petitioner at Mumbai.

10. Upon perusal of the case papers and the impugned order passed by the Ld. State Commission and the requisite inputs and clarifications approval was granted by the Legal Cell to prefer an appeal against the present impugned order on or about 10.01.2017.

11. That thereafter the relevant case papers were sent to the New Delhi Office of the Petitioner for filing the Revision Petition before this Hon''ble Commission and the same was received by the Legal Team at New Delhi Office on or about 13.01.2017.

12. That the local legal team of the Petitioner at New Delhi sent the relevant case papers and the pleadings filed before the Ld. District Forum and the Hon''ble State Commission to its advocate Mr. Navneet Kumar on or about 16.01.2017.

13. That the advocate of the petitioner received the said documents on or about 17.01.2017.

14. That the dealing advocate (Adv. Navneet Kumar) of the petitioner took some time to peruse all the documents sent by the petitioner and on or about 06.02.2017 sought the legible copy of the Complainant Evidence and the FIR and some clarifications were also sought as the said documents available with the petitioner were not legible.

15. That the Delhi office of the petitioner immediately requested the local office at Chandigarh to provide the said requisite legible copy of the Complainant Evidence and FIR copy and also the clarifications. The local office also had the illegible copy of the said documents, hence request was made to the dealing advocate at Rohtak to provide the same. The dealing advocate had misplaced his case file being quite an old one. Efforts were made to trace the file and relevant documents by the said advocate but the file could not be traced out. Hence, the dealing advocate obtained the certified copy of the requisite documents from the Ld. District Forum and the same was provided to the local office of the petitioner on or about 03.05.2017.

16. That the said documents and clarifications were immediately provided to the advocate of the petitioner at Delhi.

17. That the advocate of the petitioner took some time in researching on the legal issues and drafting the revision petition. The advocate of the petitioner sent the draft revision petition for approval and signing to the local office in Delhi on 07.05.2017 and the approved signed revision petition was supplied to Adv. Navneet Kumar on 08.05.2017."

(Emphasis supplied)

6. In our opinion, the explanation furnished by the Insurance Company is absolutely unsatisfactory and does not make out a sufficient cause for condonation of the aforesaid delay.

7. Admittedly, the certified copy of the impugned order was received by the Insurance Company on 01.11.2016. Going by the same and bearing in mind the limitation period of 90 days, as provided under Regulation-14 of the Consumer Protection Regulations, 2005, for filing the Revision Petition, the Insurance Company was required to file the same on or before 30.01.2017. However, the Revision Petition has been filed only on 09.05.2017. On receipt of the impugned order, the Insurance Company took over a month in getting opinion in the matter from its Counsel, on 05.12.2016. Thereafter, the Insurance Company''s Legal Cell also took over a month in according its approval to do the needful, on 10.01.2017. In order to take the necessary action in the matter, the case papers were sent to the present Counsel on 16.01.2017 but the said Counsel too took 20 days in requisitioning the legible copies of certain documents from the Insurance Company, on 06.02.2017. Though, as on the said date, the Revision Petition, to be filed, was already barred by limitation, yet, in the process the Insurance Company took almost three months in getting issued the certified copy of certain documents, sought by its Counsel. The said documents were provided to the local office of the Insurance Company on 03.05.2017 and ultimately the present Revision Petition was filed before this Commission on 09.05.2017, with an inordinate delay of 103 days. The lackadaisical approach of the Insurance Company to the matter is writ large and, accordingly, its plea that it being a public limited company had to take several steps and approvals, resulting in movement of case file from one office to another, and thereby consuming time, is of no avail to it. On its Counsel asking for certain documents on 06.02.2017, by which date the limitation to file the Revision Petition had already expired, the Insurance Company ought to have been on its toes to collect the documents/ information sought for by the Counsel, so that the Revision Petition could be filed without further delay. Alas, it did not happen and its functionaries took almost three months in getting/furnishing the said documents to its Counsel, on 03.05.2017.

8. In view of the above, we have no hesitation in holding that the Insurance Company has failed to make out a "sufficient cause" for condonation of inordinate delay of 103 days in filing the Revision Petition. In coming to the said conclusion, we have also kept in view the observations of the Hon''ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority

[(2011) 14 SCC 578] to the effect that while deciding an application for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Act for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if belated petitions filed against the orders of the Consumer Foras are entertained.

9. For the foregoing reasons, we are not inclined to condone the afore-stated period of inordinate delay in filing the Revision Petition and would dismiss the same on the short ground of limitation. Ordered accordingly.

