
(2005) 01 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

SANGANI SURYANARAYANA

APPELLANT

Vs

Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision : 27-01-2005

Acts Referred:

Citation : 2005 2 CPJ 29

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Final Decision : Appeal dismissed

Judgement

1. -HEARD learned Counsel for the parties.

2. ACCORDING to the case of the complainant, at 10.00 p.m. on 11.1.1996, while allegedly insured fishing boat was engaged in operations at Kothapalem area the lascars got into the boat to bring crushed ice from fish hold to pour it in ice box, which was kept on the deck for cooling the prawns. It was noticed that inner premises was filled with water and the water was gushing into the boat from bottom of the hull. The driver checked all probable sources for leakage of water but could not conceive how the water was gushing in. The crew of the boat signalled with torch light to other boats which were conducting fishing at a distance but no boat came to their rescue. The driver navigated the boat towards the shore with a view to save it. As the sea water entered into the engine, the boat came to a halt. The boat was anchored to bail out the water unsuccessfully. The crew jumped into the sea and reached the shore with the help of empty oil cans. Gradually, that directed to the shore side, boat sank; grounded in a deep ditch near the shore of Kothapalem into the sea (after nearly 6 to 7 hours) between 4-5 a.m. on 12.1.1996. They reported the matter to the insurer and claimed the amount of compensation from the insurer. The insurer repudiated the claim.

The State Commission disbelieved the version of the complainant for a number of reasons.

3. HAVING gone through the record, after hearing the Counsel, seeing the report

of the Surveyor and the reason given by the State Commission, it appears that there is no reason for us to take any view different from the view expressed by the State Commission. Firstly the weather report dated 18.4.1996 showed that weather condition on 12.1.1996 was unexceptionally normal. Secondly, as submitted by the learned Counsel for the complainant, if water had started quashing into the boat before 10.00 p.m. as was noticed by the crew and the driver continued to ply the boat there were 6-7 hours time which was quite sufficient for the driver to reach the shore. Either the water was not gushing into the boat as stated by the complainant or it had struck against a rock near the shore or damaged otherwise. It appears illogical to accept that driver instead of making an attempt to navigate to the safety of the shore, would venture to anchor the boat in the mid sea and would try to bail out the water, for the shore appeared very close from the place where it sank. If we believe the complainant's story and the story was not otherwise and the boat sank due to gushing of water into the boat near hull, it would certainly cause imbalance in the boat due to water towards water bearing side and the boat could not have been found in upright position for it is totally unnatural position in the mentioned circumstances. The State Commission has also noticed several discrepancies in the statement of driver, sailors and the salvage operations leaving several ambiguities in the case as narrated by the complainant. The State Commission has rejected the claim after considering the report of J. Basheer of M/s. J. Basheer & Associates the Surveyor. Seeing the very well reasoned order, we do not find any reason to say that any of the observations made by the State Commission would call for any interference. There is no substance in the appeal. Accordingly, we dismiss the appeal. The parties are left to bear their costs. Appeal dismissed.