

(2009) 04 NCDRC CK 0027

In the National Consumer Disputes Redressal Commission

Sardar Gur Charan Singh

APPELLANT

Vs

UNITED INDIA INSURANCE COMPANY LTD.

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Citation : 2009 2 CPJ 215

Hon'ble Judges : R.K.BATTA , S.K.NAIK J.

Advocate : P.K.Sikka , V.K.GUPTA

Judgement

1. THE Petitioner/Complainant had filed claim for Rs. 68,700 in connection with accident of his bus which was insured with the Respondent/Opposite Party. The District Forum had granted the claim to the extent of Rs. 43,000 as damages to the bus and Rs. 250 as litigation cost. This order was challenged by the Insurance Company before the State Commission and the State Commission allowed the appeal by reducing the compensation payable at Rs. 3,700 with 9% interest thereon from the date of filing of the complaint till payment. The parties were left to bear their own cost. This order is challenged before this Commission in revision.

2. HEARD the Petitioner who appeared in person and Counsel for the Respondent.

3. THE Petitioner argued before us that the Insurance Company had granted permission to him to get the vehicle repaired at Jalandhar for which he had submitted estimate of Rs. 57,000 to the Insurance Company. However, the Insurance Company did not pay and he had filed the claim before the District Forum. According to him, the District Forum had correctly granted compensation but the State Commission without any reason or justification reduced the compensation to meagre sum of Rs. 3,700 only. He, therefore, contends that the order of the State Commission be set aside and the order of the District Forum be restored. On the other hand, Counsel appearing on behalf of the Respondent submitted before us that the vehicle in question was 9 years old at the time of accident; that the report of the Surveyor shows that the damages were old and rusted on account of which the Surveyor had assessed the damages at Rs. 3,700

only. It is further submitted that if the Petitioner was not satisfied with the survey report, he could have applied for second Surveyor. No steps were taken by the Petitioner in this regard. He also submitted that the Petitioner had not given any actual bills of repair of the vehicle. According to him, the order of the State Commission does not call for any interference.

4. THE State Commission had relied upon the report of the spot Surveyor conducted by Shakti Vardhan as also the final Surveyor conducted by Techno Expert at Jalandhar at the request of the Petitioner. Admittedly, the vehicle, in question, was 9 years old. The spot Surveyor Shri Shakti Vardhan had made the following relevant observations : "Looking the spot and condition of the bus, I am of this opinion that almost all damages and losses are old because, there were pieces of broken glasses around and inside the bus. Front L/S and R/S of the body were presses and damaged but all such damaged were rusted which is clear from the photographs enclosed herewith."

5. THE final survey was conducted by Techno Experts and it was found during inspection that damages to the bus were old and sheet metals were rusted which facts had been confirmed by the Surveyor Shri Shakti Vardhan. Taking into consideration the above mentioned factors, Techno Experts had assessed the loss at Rs. 3,700 only. The State Commission also took note of the fact that the Complainant/Petitioner had not filed receipt of the repairs carried out in respect of the vehicle. It appears that no affidavit was filed from the Garage from where the vehicle was got repaired. The State Commission has also pointed out that the Petitioner/Complainant has not produced essential relevant documents and ordered payment of compensation on the basis of Surveyors' reports. The findings of the State Commission , in our opinion, are well founded and based upon material on record and as such do not call for any interference in the exercise of revisional jurisdiction under Section 21(b) of Consumer Protection Act, 1986. The revision is accordingly dismissed with no order as to costs. R.P. dismissed.