(1993) 12 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

S.B. ENTERPRISES APPELLANT

Vs

National Insurance Co. Ltd RESPONDENT

Date of Decision : 22-12-1993

Acts Referred:

Citation : 1994 1 CLT 515 : 1994 1 CPC 429 : 1994 1 CPJ 62 : 1994 1 CPR 96

Hon'ble Judges : V.Balakrishna Eradi , Y.Krishan , B.S.Yadav J.

Final Decision : Appeal disposed of

Judgement

1. THIS is an appeal against the order of 6th April, 1992 of the State Commission of Delhi in Complaint No. 81/- 90. The appellant was running a small scale unit manufacturing crown caps. He had taken out an insurance policy for the period from 27th September, 1989 to 26th of September, 1990 for the building, fixtures and furniture, machinery and stocks including raw materials etc. The total amount covered under the insurance policy was Rs. 3 lacs. There was a fire in the unit on the night of 29th-30th October, 1989 which caused damage" to the insured property. As there was considerable delay in settlement of the insurance claim by the respondent insurer, in July, 1990 the appellant complainant filed a complaint before the State Commission of Delhi in which he made the claim for Rs. 2,88,940/- or say Rs. 2.89 lacs. THIS included a sum of Rs. 1 lac on account of loss of business arising from the delay in the settlement of the claim, under the insurance policy.

2. DURING the pendency of the complaint before the State Commission, the appellant asked for increased relief of the total value of Rs. 5,79,547/-. This, however, has not been considered by the State Commission. After a detailed examination the State Commission allowed the claim amounting to Rs.1,80,498/- with interest at 16% p.a. from the date of the order till the date of payment and costs Rs.1,500/-. The appellant has challenged the quantum of the award given by the State Commission in its favour.

The State Commission had disallowed certain claims of the appellant viz. repair of building (Rs.3,670/-), repair of machinery (Rs.33,530/-) and consultancy charges (Rs. 6,000/-) on the ground that there was want of authentic or acceptable proof in the form of receipts/bills in support of these expenses. In fact in respect of some of these claims the State Commission had observed that the bills or receipts appeared to be fabricated. In respect of the Laboratory Equipment the claim for Rs. 10,190/- was rejected on the ground that it was not covered under the terms of insurance.

3. THE State Commission had taken note of the conduct of the surveyor appointed by the insurer and who had delayed settlement of the claim, and passed strictures against him for asking for information and evidence, which was not fully warranted. This has been the subject matter of a separate order by this Commission in First Appeal No. 227of 1992 M/s. Adarsh Associates v. M/s. S.B. Enterprises &Anr. decided on 7th October, 1993. In the appeal petition the appellant has tried to establish that the State Commission has failed to appreciate that he had actually incurred the expenses and repairs etc.; that there was adequate evidence especially, collateral evidence to support his claim and has therefore, prayed for the grant of the amounts disallowed by the State Commission. He has also pleaded that the claim for damage to the lab equipment was covered by the insurance policy and the decision of the State Commission is erroneous in terms of the policy.

4. ON going through the appeal petition and the record, we find that the claim for the amounts expended on account of repairs or consultancy charges was disallowed by the State Commission because it is not based on any acceptable evidence; there is want of details of work done such as labour charges, material charges and the nature of the repairs carried out. Some claims were attempted to be supported by affidavit made in December, 1990 or payment made in September, 1990, but this was long after the service was rendered or material purchased and also after the institution of the complaint before the State Commission. We are, therefore, satisfied that the rejection of these claims of the appellant by the State Commission was fair and correct. In regard to the items of laboratory equipment (claim Rs.10,190/-), however, the order of the State Commission requires reconsideration. The claim for the lab equipment pertains to damage to the Spectro Colorimeter purchased for Rs. 8,362.74 in 1989. This is an instrument for verifying the strength of the chemicals used in a factory. The precise ground on which the State Commission has found that it is not covered by the terms of policy has not been given in the order of the State Commission.

5. THE policy of Insurance covers, inter alia, machinery. An "instrument" is a mechanical device, a contrivance, a tool or an implement. "Machinery" is an apparatus consisting of interrelated parts with separate functions used in performing some kind of work; a "machine" is also a contrivance, a device. Likewise, a "contrivance" may be a mechanical or an electrical device. It would be evident from the definition of the words instrument, machine or machinery, and contrivance that they can be used interchangeably and an "instrument" can legitimately be deemed to be machinery.

6. MORE importantly, the insurance policy covers all the assets, fixed and floating, of the insured viz. building, furniture & fixtures, machineries, stock including raw materials etc. Obviously, the lab equipment Spectro Colorimeter in this case, must fall under one of the four categories of assets covered by insurance policy and obviously it would fall under "machineries". It would be unreasonable to hold that this item of equipment though called an instrument, was left uncovered by the insurance policy when every other item of the assets, fixed and floating, had been covered. We, therefore, hold that the claim of the appellant in respect of the damage to laboratory equipment by fire was fully covered by the insurance policy and his claim for Rs. 10,190/- is allowed. The order of the State Commission is, therefore, confirmed except to the extent indicated above viz. the claim on account of the damage by fire to laboratory equipment. The appeal petition is disposed of accordingly. There is no order as to costs. Appeal disposed of.