
(2003) 08 NCDRC CK 0092

In the National Consumer Disputes Redressal Commission

SHEO DAYALAppella

APPELLANT

Vs

BRANCH MANAGER, KANPUR KSHETRIYA GRAMIN BANK

RESPONDENT

Date of Decision : 20-08-2003

Acts Referred:

Citation : 2004 1 CPJ 151 : 2004 2 CPR 568

Hon'ble Judges : Palok Basu , Rachna J.

Final Decision : Appeal dismissed.

Judgement

1. MR. R.D. Bhatia, learned Counsel for the appellant, Sheo Dayal, has been heard at length and the entire record of this appeal has been examined. Sri Sanjay Saxena has put in appearance for the Insurance Company while MR. Uma Shankar Gupta has appeared for Kshetriya Gramin Bank, respondent No. 1.

2. ADMITTEDLY Sheo Dayal went before the District Forum, Kanpur Dehat in Complaint Case No. 24 of 1993 whereby he prayed for a decree for compensation for the alleged loss of 19 she-goats which he had allegedly purchased after obtaining loan from opposite party No. 1, Kanpur Kshetriya Gramin Bank, Sheoli and got those 19 she-goats insured through United India Insurance Company Limited, Branch Office Mall Road, Kanpur. It was alleged in the complaint that all the 19 she-goats died, one by one, on account of epidemic during the period 1.12.1991 to 1.2.1992. It is further stated that post-mortem examination of the she-goats was got done and thereafter claim was lodged with the Insurance Company which repudiated the claim. Hence the complaint was lodged. Both the opposite parties appeared before the District Forum and filed their replies. The Bank admitted granting the loan of Rs. 10,000/-. The Insurance Company, opposite party No. 2, however, denied insurance of 19 she-goats. They got the matter investigated through an independent Surveyor who found that only three she-goats were purchased and insured through the Insurance Company.

Mr. Bhatia drew the attention to the Annexures which have been filed alongwith the appeal. On scrutiny of all the Annexures, it has been found that the insurance papers relate only to three she-goats. The other documents are not relevant for

the purpose of deciding this appeal because the District Forum proceeded to hold that there was insurance of only three she-goats. Once the claim is dependent on the insurance of the animals and their death entitling claim of the insurance money and it is held by the District Forum that only 3 she-goats were purchased by the complainant from out of the loan amount, the appellant has to show how the Forum is wrong.

3. THE District Forum examined the papers in detail and recorded the finding that : Complainant could not file papers showing purchase of 19 she-goats. He also could not file any insurance paper showing that his 19 she-goats were insured by the O.P. No. 2. Papers are available only in regard to three she-goats. O.P. No. 2 has also admitted insurance of only three she-goats. Thus the complainant can claim compensation only in regard to these three she goats. O.P. No. 1 does not appear to have rejected the claim of the complainant on sufficient grounds. It thereby failed to render service to the complainant. THE complainant is, therefore, entitled to get Rs. 1,500/- from O.P. No. 2. Mr. Bhatia could not show any other document or evidence existing in the record which in any way show the aforesaid finding to be wrong. He nonetheless made a request that the Commission may summon the record of the District Forum. Such a course is not necessary so long as the appellant himself has filed papers which are totally insufficient to render the finding of the District Forum incorrect.

4. IN view of what has been discussed above, the finding of the District Forum that only three she-goats were purchased and, therefore, a decree for Rs. 1,500/- was passed has to be upheld without hesitation. There is no error in the judgment of the District Forum. The appeal is dismissed. However, in the circumstances of the case the parties will bear their own costs. Appeal dismissed.