(2017) 09 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

Case No : 1356 of 2016

SHIMBHU SINGH SHEKHAWAT S/O SHRI RAM NARAYAN SINGH — APPELLANT

Vs

CHOLAMANDALAM MS. GENERAL INSURANCE COMPANY LTD. — RESPONDENT

Date of Decision : 13-09-2017

Acts Referred:

Citation : 2017 4 CPR 169

Hon'ble Judges : B.C. Gupta, S.M. Kantikar

Advocate : S. S. Jangra, Abhishek Kumar

Judgement

1. The complainant, Mr. Shimbhu Singh Shekhawat, had insured his Maruti Alto car with Cholamandalam MS General Insurance Company (the OP) from 19-06-2011 to 18-06-2012. During subsistence of the policy, the car was stolen on 29-12-2011. The FIR was lodged with the Police Station, Pilani on 30-12-2011 and simultaneously, the insurance company was also informed telephonically. The complainant filed a claim before the OP, but it was rejected. Hence, the complainant filed a complaint before the District Forum-II, Jaipur.

2. The OP resisted the complaint by filing the written statement and contended that the theft of car took place on 29-12-2011, whereas the information was given to OP on 13-01-2012 i.e. at belated stage. Also the FIR was registered after four days i.e. on 02-01-2012. Therefore, the terms of the policy had been violated. Accordingly, the claim was repudiated. The OP denied about telephonic intimation given by the complainant.

3. The District Forum allowed the complaint and directed the OP to pay Rs.2,30,000/- to the complainant along with interest at the rate of 10% per annum from 06-06-2012. It also allowed compensation of Rs.20,000/- towards mental agony and cost of Rs.5,000/-. Being aggrieved, the OP filed first appeal before the State Commission. The State Commission allowed the appeal and set aside the order of the District Forum. Hence, the complainant is before this Commission through the instant revision petition.

4. We have heard the counsel for the parties and perused the relevant documents on the file. The learned counsel for the petitioner-complainant vehemently argued that there was no delay in the intimation given to the OP and the police station. The FIR was lodged on 30-12-2011. The counsel stated that the information of theft was given to the OP on telephone on same day i.e. 30-12-2011 by telephone. As the office of OP was located in Jaipur and complainant was resident of Chirawa, District-Jhunjhunu, whereas the incident took place in Pilani, which is about 300 km from Jaipur. Hence, under such circumstances, the intimation was given telephonically. Thereafter, he filed the claim papers on 13-01-2012 to the office of OP. The complainant filed an affidavit in this regard. The arguments on behalf of OP is that the intimation was given after 13 days. Hence, it was a breach of condition of policy.

5. After our thoughtful consideration, it is an admitted fact that the vehicle was stolen on 29-12-2011. As per the FIR, the information of offence was received at the police station on 02-01-2012 at 12:05 P.M.. The FIR clearly depicts the date 30-12-2011, but there is no cogent evidence to show that it was presented on the same day and admittedly, it was registered on 02-01-2012. The second contention of the complainant that telephonic message was sent to insurance company on the same day but as per the policy condition, it was an obligation on the part of the complainant to give information in writing immediately upon the occurrence of any loss, but admittedly the complainant failed to give written information to OP company immediately. It appears that the complainant approached on 13-01-2012 first time along with the claim document to the OP company. Thus, in our considered view, there was delay in filing the FIR as well as the intimation to the OP insurance company. Thus, the repudiation of claim was legal, as per the terms of the policy. This view dovetails from the judgment of this Commission in the case of New India Assurance Co. Ltd. Vs. Trilochan Jane, First Appeal No. 321 of 2005, decided on 09-12-2009.

6. We, therefore, do not find any merit in the instant revision petition. It is dismissed. The parties to bear their own costs.

