
(2015) 10 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

Case No : 2833 of 2007

SHIV POOJAN VERMA

APPELLANT

Vs

RESPONDENT

Date of Decision : 30-10-2015

Acts Referred:

Citation : 2016 1 CPR 92

Hon'ble Judges : V.B. Gupta, Prem Narain

Advocate : Nikhil Jain, Gautam

Judgement

1. Being aggrieved with the order dated 22.5.2007 of the Uttar Pradesh, State Consumer Disputes Redressal Commission, (in short "the State Commission"), Shiv Poojan Verma, the petitioner has filed present revision petition. The appeal filed by the petitioner/complainant against the order dated 25.2.2002 of the District Consumer Protection Forum, Kanpur Dehat, (in short "the District Forum") has been dismissed.

2. The petitioner's case is that he had taken the fire policy from respondent Nos.1 and 2 for his stock of papers etc. in goods shop i.e. M/s. S.P.Traders, Kanpur at 83 B Dadanagar, Kanpur. The fire broke out in the night of 5/6.02.1990, and the stock being of papers basically, everything got burnt. On information the respondent Nos.1 and 2/Opposite Parties sent one surveyor, Mr. Ashwani Gupta, who submitted his report on 28.08.1992, wherein net loss was assessed to the extent of Rs.1,43,698.53/-. However, no decision was taken by respondent Nos.1 and 2 and they appointed another surveyor Mr. S.D. Shukla to assess the loss. The surveyor Mr. Shukla again asked the original documents from the petitioner, but he was informed by the petitioner, that the documents were already taken by the earlier surveyor Mr. Ashwani Gupta and the same may be taken from him. When the claim was not settled for a long time, the petitioner filed a consumer complaint before the District Forum, which vide its order dated 25.2.2002 allowed the complaint and ordered as follows: "The complaint is admitted. The opposite party New Assurance Company limited is directed that he

will pay Rs.50,000/- within the 60 days of this judgment, and an interest at the rate of 12% per annum thereon will be paid with effect from the date 10.8.1993 till the realization of the decretal amount. The remaining relief of the complainant is rejected. The complainant is also entitled for Rs.1000/- as cost of this case."

3. Aggrieved with this order of the District Forum, petitioner preferred an appeal before the State Commission, which was dismissed vide order dated 22.5.2007 by the State Commission.

4. Aggrieved with this order of the State Commission, the present revision petition has been filed by the petitioner.

5. We heard learned counsel for the petitioner and the learned counsel for the respondent no.3, State Bank of India. The respondent Nos.1 and 2 were proceeded ex-parte vide order dated 7.5.2015. Learned counsel for the petitioner stated that Insurance Company has not assigned any reason for not considering report of the first surveyor Mr. Ashwani Gupta, and without any reason, appointed another surveyor Mr. S.D. Shukla for investigation of the case. It was argued that insurance claims are generally settled on the basis of the surveyor's report and the District Forum has based its decision on the report of the Fire Officer of the Fire Department of Kanpur Nagar. The State Commission also did not think it necessary to find out as to what happened to the report of the first surveyor and why a second surveyor was appointed. The first surveyor had assessed the net loss of Rs.1,43,698.53/-. On these facts, the petitioner is entitled to get the compensation as per the report of Mr. Ashwani Gupta.

6. Learned counsel for the respondent no.3, the State Bank of India stated that he has nothing to say in the matter. There were no arguments from respondent Nos.1 and 2 as they were proceeded ex-parte vide order dated 7.5.2015.

7. After hearing the arguments and perusing the records, we are of the view that in the light of the two surveyor reports and one report by Fire Officer of the Fire Department of Kanpur Nagar, the decision of the fora below has been taken in the interest of justice. The first report of Mr. Ashwani Gupta, has not been accepted by the respondent Nos.1 and 2 and the second report of Mr. S.D. Shukla, surveyor was of a very less value as observed by the State Commission in their order dated 22.5.2007. The District Forum has rightly taken the third report as the basis for its decision. The State Commission has also dwelled upon this issue and reached to the same conclusion. The report of the Fire Officer of Fire Department of Kanpur Nagar, has been considered as authentic because it was based on the inspection of the ground reality just after the fire and both the parties had filed this report. In these circumstances, we are of the opinion that the order of the State Commission does not suffer from any illegality, infirmity or jurisdictional error. We find no ground for interfering with the order of the State Commission.

8. Accordingly, the revision petition is dismissed. Respondent Nos.1 and 2 are directed to comply with the order of the District Forum dated 25.2.2002 within

30 days failing which the interest @ 12% p.a. will be payable to the petitioner from the date of this order.

9. No order as to costs.