

(2015) 09 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

Case No : 2246 of 2015

**SHRI RAM TECHNICAL BATTERY Vs ROYAL SUNDARAM ALLIANCE
INSURANCE?COMPANY LTD.**

Date of Decision : 17-09-2015

Acts Referred:

Citation : 2016 1 CPJ 338

Hon'ble Judges : J.M. Malik, Dr. S.M. Kantikar

Advocate : Awanish Kumar

Judgement

1. Shri Ram Technical Battery, the complainant, used to transact its business at Plot No.4, Agrasen Market, behind the Tata Motors Show Room, Jaipur. He obtained insurance policy against the goods situated at his above said shop from Royal Sundarm Alliance Insurance Co., the OP, for the period commencing from 18.03.2010 to 17.03.2011. On 23.02.2011, the complainant changed the venue of his shop and shifted to 315, Near Bus Stand, Dher Ke Balaji, Sikar Road, Jaipur.

2. According to the complainant, he contacted the Manager of the OP and requested for the change of the above mentioned address in the proposal form. On oral assurance that the address

would be changed, he returned back. During the mid-night of 15.05.2011, 273 batteries were stolen and his claim was repudiated on the ground that the new place found no mention in the insurance policy.

3. The District Forum ordered that the complainant would receive damages to the tune of Cunningham Lindsay Private Limited's report dated 19.08.2011 in relation to the theft of the batteries. The complainant was also awarded interest @ 9% p.a., on the amount commencing from the period of initiation of the complaint to that date of collection. He was also awarded Rs.10,000/- towards compensation and costs of the litigation.

4. However, the State Commission accepted the appeal filed by Royal Sundaram Alliance Insurance Co, the OP and dismissed the complaint.

5. We have heard the counsel for the parties. The case of the complainant hinges upon two factors. First is that he has produced the photocopy of the "Customer Declaration Form" which shows the insured's location address as Plot No.4, Agar Jen Market, B/H Tata Moti Shoori, Jaipur, Rajasthan. Above that, the address: - 315, Near Bus Stand, Jaipur, is also mentioned. To make the things understand clearly, we will try to reproduce the above said writing as follows :- Name of the financial institution which has interest in the property proposed for insurance_____

INSURED DETAILS 315, Bus Stand, Sikar Road, Jaipur

1. Description of Trade/Business at the insured location (Please tick any one)
Office Hotel /Restaurant Shop including attached Godown

BPO Software Unit Educational Institution Others , Please specify

2. Insured Location Address : Plot No.4, Agar Jen market B/H Tata Moti
City/Town Shoori, Jaipur,
Rajasthan PIN Code 302013.

3. Please state the number of years you are operating from this premises
_____".

6. Secondly, the complainant placed reliance on his conversation with the Manager of OP, on telephone, which was recorded in CD. CD was also produced. The State Commission came to the following conclusion :- " We would like to narrate this about CD that transcription of this CD has not been presented, and whatever conversation has been recorded in CD, is not certified. The whole matter is depend on the customer declaration form dated 18.03.2010".

7. During the arguments, we asked the counsel for the petitioner/complainant, as to where is the original form. He accepted that the same was not got produced before the lower fora. He also admitted that no application was moved before the District Forum that the said form should be produced. It, therefore, means that no effort was made to compel the OP to get the original form produced. In the absence of that important document, the clear picture does not emerge. The date of said amendment was never shown. The insured's location address was never deleted. The above said now alleged forged writing was not written in the proper place. No application for amendment was moved. It is well known that oral submission carries exiguous value.

8. Secondly, a bare look of the CD makes neither "head nor tail". The comparison of "voice" on the CD can be crucial. No comparison was ever made. Instead of approaching the consumer forum, the complainant should have filed a civil case. Where the evidence is recorded properly, the OP has always got the right to cross-examine the witnesses. The "voice" can be properly compared in a

civil court. There is not even an iota of evidence that the "voice" of the alleged Manager, whose name was never disclosed, tallies with this "voice".

9. Under these circumstances, we find that the findings of the State Commission cannot be faulted.

10. During the arguments, the complainant was quite sure that these "voices" belong to the Manager. Consequently, the revision petition is hereby dismissed, but liberty is given to the complainant to approach the civil court and get the appropriate relief as per law and by seeking help so far as the question of limitation is concerned, from the celebrated authority reported in Laxmi Engineering Works Vs. P.S.G. Industrial Institute [(1995) 3 Supreme Court Cases 583].