(2015) 03 NCDRC CK 0162

In the National Consumer Disputes Redressal Commission

SHRIRAM GENERAL INSURANCE CO LTD	APPELLANT
Vs	
Gurshinder Singh , Accurate Inverstigator And Recovery Agency	RESPONDENT

Date of Decision : 17-03-2015

Acts Referred:

Citation : 2015 2 CPJ 750

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : N.P.Chauhan , KARAN DEWAN

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 26.03.2013 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (in short, ''the State Commission'') in Appeal No. 790 of 2012 Shriram General Ins. Co. Ltd. Vs. Gurshinder Singh by which, while dismissing appeal order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that Complainant/respondent got his tractor PB -36 -E -9733 insured from OP No.1/petitioner on 19.6.2010. On 28.10.2010, tractor was stolen and FIR was lodged on the same day and claim was submitted to OP on 15.12.2010 which was repudiated on the ground of delay of 52 days in intimation. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP No. 1 resisted complaint and submitted that on account of violation of condition no. 1 and 5 of the terms of policy, claim was rightly repudiated. It was further submitted that as per FIR, tractor was parked in the field of relative leaving it unattended from where it was stolen amounts to violation of terms and conditions of policy and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and directed OPs to pay Rs.4,70,000/ - and further granted compensation of Rs.5,000/ -. Appeal filed by OP was dismissed by learned State Commission vide impugned order against which, this revision petition has been filed.

3. RESPONDENT No. 2 was deleted. Heard learned Counsel for the parties and perused record.

4. LEARNED Counsel for the petitioner submitted that on account of delay of 52 days in intimation to Insurance Co., claim was rightly repudiated and learned District forum committed error in allowing complaint and learned State Commission further committed error in dismissing appeal; hence, revision petition be allowed and impugned order be set aside and complaint be dismissed. On the other hand, learned Counsel for the respondent submitted that order passed by learned State Commission is in accordance with law and further submitted that at least respondent is entitled to 75% on non -standard basis and prayed for dismissal of revision petition.

5. ADMITTEDLY , there is delay of 52 days in intimation to Insurance Company. Learned Counsel for the petitioner placed reliance on judgment of this Commission in New India Assurance Co. Ltd. Vs. Trilochan Jane,2012 4 CPJ 441 in which on account of delay of 2 days in lodging FIR and delay of 9 days in intimation to Insurance Co. regarding theft of vehicle, claim of complainant was dismissed. He has also placed reliance on New India Assurance Co. Ltd. Vs. Ram Avtar, 2014 1 CPJ 29 in which claim was dismissed on account of delay of 35 days in intimation to Insurance Co. regarding theft of vehicle, though, FIR was lodged on the same day. He also placed reliance on judgment of Apex Court in C.A. No. 6739 of 2010 Oriental Insurance Co. Ltd. Vs. Parvesh Chander Chadha in which orders of Fora below including National Commission were set aside and complaint was dismissed as vehicle was stolen between 18.1.1995 to 20.1.1995 and FIR was lodged on 20.1.1995, but intimation to Insurance Co. was given on 22.5.1995. In the aforesaid case, it was also observed that complainant was duty bound to inform about theft of the vehicle to the Insurance Co. immediately after the incident.

6. IN the light of aforesaid judgments, it becomes clear that on account of delay of 52 days in intimation to Insurance Co. regarding theft of insured vehicle, OP has not committed any deficiency in repudiating claim and learned District Forum committed error in allowing complaint and learned State Commission further committed error in dismissing appeal.

7. LEARNED Counsel for the respondent placed reliance on judgment of this Commission 2009 (1) CPC 55, but this judgment has been set aside by Hon''ble Apex Court in C.A. No. 6739 of 2010 Oriental Insurance Co. Ltd. Vs. Parvesh Chander Chadha. Learned Counsel for the respondent should not have cited judgment which has been set aside by Apex Court.

8. IN the light of aforesaid discussion, revision petition is to be allowed.

9. CONSEQUENTLY , revision petition filed by the petitioner is allowed and order dated 26.03.2013 passed by the State Commission in Appeal No. 790 of 2012 Shriram General Ins. Co. Ltd. Vs. Gurshinder Singh and order of District Forum dated 9.5.2012 in Complaint No. 380/2011 - Gurshinder Singh Vs. Shriram General Ins. Co. Ltd. is set aside and complaint stands dismissed with no order as to costs.

