(2014) 05 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

Soniya Fabrics Pvt. Ltd. APPELLANT

Vs

CENTRAL BANK OF INDIA LTD. RESPONDENT

Date of Decision : 23-05-2014

Acts Referred:

Citation : 2014 0 NCDRC 531 : 2014 3 CPJ 196

Hon'ble Judges : J.

Final Decision : Petition dismissed

Judgement

1. SONIA Fabrics Pvt. Ltd., the complainant holds cash credit facility in Central Bank of India, OP1 and OP2 who are its Branch Managers. For the security of balance of the said Cash Credit account, in addition to other securities, the bank took the hypothecation of stock of all silk fabrics. The OPI, Bank, took the insurance of their stock as per their convenience from New India Assurance Co. Ltd. OP3. OPI and OP2 informed the complainant that there is a business tie -up between the OPI, Bank and OP3, Insurance Company and OPI is the agent of OP3 and does the selling of insurance policies of OPI. The New India Assurance Co. Ltd. issued the policy for the period 23.2.2005 to 22.2.2006. At the time when the insurance policy was obtained, the shops of the complainant were running in the property of New Textiles Market, Shop Nos. 682/683, Ring Road, Surat. The stocks of the business was also stored therein. During the existence of the above said insurance policy, the shops were transferred from Shop Nos. 682/683 to Shop Nos. J -3212 and J -3235 of the same premises in New Textile Market. The matter was intimated to the Bank, OPI in writing vide letter dated 26.4.2005.

2. ON 5.7.2005, a fire broke out in the said premises and the stock of all the silk fabrics kept in the shop was gutted in the fire. However, some of the goods were partially damaged. FIR was lodged and Panchnama was prepared which mentioned the loss of fabrics in the sum of Rs. 30.80 lakh. The Bank and the Insurance Company were informed about the said mishap immediately. Surveyor, Mr. C.L. Dhamija, visited the spot on 6.7.2005. He investigated the case.

Ultimately, it repudiated the claim on the ground that change of place does not stand covered under the policy. It is contended that the Bank was negligent in not informing the Insurance Company regarding the change of place.

3. A complaint was filed before the District Forum with the following prayers: (a) Request to order the compensation of Rs. 16.80 lakh towards the loss of Art silk fabric due to fire accident at our shop with 12% compound interest from the date of actual payment date i.e., 5.7.2005, the loss of Art silk fabric due to fire accident at our shop to be paid jointly and severally by the opponents within 30 days from the date of order passed by the honourable consumer Forum.

(b) Because of the serious carelessness and default in service of the opponents, we the complainant have suffered great physical/mental distress, agony, harassment for which the further order to be issued for the compensation of Rs. 50,000 to be paid to the complainant by the opponents.

(c) The total expenditure of this complaint to be recovered from the opponents.

(d) To pass such other order for any other relief the Forum finds to be just and proper.

4. THE District Forum partly allowed the complaint. OPs 1 and 2, were directed to deposit Rs. 6,22,646 in the cash credit account of the complainant along with interest @ 9% p.a., costs of Rs. 10,000 was also imposed. Complaint against OPs 3 and 4 was dismissed. An appeal was filed by OP2 on behalf of OPs 1 and 2. The State Commission set aside the order of the District Forum and allowed the appeal. Aggrieved by that order, the complainant filed the present revision petition.

5. WE have heard the Counsel for the petitioner/complainant. He vehemently argued that the Bank was acting as an agent of Insurance Company and it was bound to inform the Insurance Company. He argued that this is deficiency on the part of Bank and it has not acted like a prudent person. All these arguments lack conviction. This is a peculiar case. The Bank cannot be said to be an agent on behalf of the petitioner/complainant, rattier it facilitated the payment of loan in favour of the petitioner/complainant. Before shifting to other premises, it was the bounden duty of the complainant/petitioner to inform the Insurance Company that it was going to shift its premises. It should have sought its permission. The Insurance Company would have seen the new place and found it whether the same stock has been gathered there. It is rather the petitioner/complainant who did not act as a prudent person. It rather shows negligence, inaction and passivity on the part of the complainant. The complainant has missed the train. He cannot attribute his negligence to others. He is trying to make a vain attempt to make bricks without straw. His attempt to tilt at windmills, does not ring the bell. The revision petition is, therefore, dismissed.

