

(2004) 09 NCDRC CK 0076

In the National Consumer Disputes Redressal Commission

SRESHTHA SONS

APPELLANT

Vs

National Insurance Company Ltd.

RESPONDENT

Date of Decision : 08-09-2004

Acts Referred:

Citation : 2005 3 CPJ 196

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal J.

Final Decision : Appeal dismissed

Judgement

1. -SHORT question arising for determination in this appeal directed against the order dated 29.1.2004 passed by District Forum (East), Saini Enclave, Delhi whereby the complaint of the appellant against the repudiation of its claims by the respondent Insurance Company against the insurance policies was dismissed is whether the damage of goods due to heavy rain is covered under Clause VI of the Standard Fire and Special Perils Policy or not.

2. CLAUSE VI obligates the Insurance Company to indemnify the insured amount of goods damaged on account of "Storm, Cyclone, Typhoon, Tempest, Hurricane, Tornado, Flood and Inundation." Brief facts are that the appellant took two policies from the respondent, one for fire and another for theft. He is having a business at several locations in Delhi like Anand Vihar, Vivek Vihar, Chandni Chowk, Parvana Road, etc. on 3.9.2002 goods were being carried from Vivek Vihar to Anand Vihar in a rickshaw and all of sudden there was heavy rain. As a result the goods fell on the road and got damaged. The appellant claimed the insurance amount by referring Clause VI of the policy on account of damage due to "flood". As the facts of the case show the goods were damaged due to heavy rain when they were being taken in a rickshaw. By no stretch of imagination heavy downpour or heavy rain comes within the meaning of word "flood" or inundation, unless the articles get submerged either under the heavy water-logging due to heavy rain taking the form of flood or inundation.

In common parlance flood means logging of water caused by breaking of dams or overflow of the river turning into flood. The simplicitor dictionary meaning of

both these words rule out the possibility of heavy rain turning into "flood" or "inundation". As per Oxford Dictionary word "flood" means an overflow of a large amount of water over dry land. Word "inundation" also means "flood" but with addition of overwhelming of the things. Whenever we use the word "floodgate", in common parlance means a gate that can be opened or closed to admit or exclude water especially the lower lock or holding back to powerful outpouring. In order to appreciate the proper meaning of word "flood" we may seek help in knowing the meaning of flood plain. Flood plain is an area of low-lying ground adjacent to a river that is subject to flooding, that is, overflowing. Presumably goods were damaged because of heavy rains due to negligence in seeing that the goods are well packed and do not suffer any damage on account of sudden rain. Since in the instant case neither was there any overflowing water over the dry land nor due to opening of floodgate nor accumulation of water amounting to inundation. Thus in terms of Clause VI the claim of the appellant was highly misconceived and so is the appeal.

3. IN view of the foregoing reasons there is no ground to interfere in the impugned order. Appeal is dismissed in limine. A copy of this order as per statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. The FDR deposited by the appellant be returned to the appellant after completing necessary formalities. Appeal dismissed.