

(2004) 03 NCDRC CK 0077

In the National Consumer Disputes Redressal Commission

SUDAMALAL MADWANI

APPELLANT

Vs

Divisional Manager, New India Assurance Co. Ltd.

RESPONDENT

Date of Decision : 25-03-2004

Acts Referred:

Citation : 2004 4 CPJ 383

Hon'ble Judges : V.K.Agrawal , Veena Misra , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal under Section 15 of the Consumer Protection Act, 1986 filed by one Sudamalal Madhwani directed against the order passed by the District Consumer Grievances Redressal Forum, Bilaspur (hereinafter referred to as the "District Forum" for convenience) in Case No. 382 of 1999 on 6.4.2000.

2. THE contention of the complainant in brief is that he had obtained Motor Vehicle Insurance Policy No. 31/450307/10393 valid for the period from 25.3.1995 from the respondent/opposite party for a Matador vehicle bearing registration No. MP23/D5198 owned by him. THE said vehicle met with an accident on 22.4.1994 near village Kapa, Police Station Tumgaon. THE complainant after submission of the claims form, made several efforts continuously to obtain the insurance claim money arising out of the above accident from the opposite party. As averred he also sent a registered letter to the opposite party/respondent, the insurer on 30.6.1999, and having failed, filed a complaint on 26.11.1999 with the District Forum. As per the version of the appellant/complainant he spent Rs. 1,47,976/- towards repairs of the said vehicle due to the accident. Claiming deficiency on the part of the insurer the appellant/complainant has demanded the cost incurred on repairs to the vehicle and a further compensation of Rs. 50,000/- on account of the loss suffered by him in his business as well the cost of the complaint.

As averred the cause of action arose on 30.6.1999 the date on which he claims to have sent a registered intimation to the insurer. The copies of the registered intimation dated 30.6.1999, Insurance papers, FIR, bills for repairs and the

money receipt for towing the vehicle along with an affidavit in support of his claim also have been filed by the appellant/complainant.

3. THE respondent/opposite party filed a reply to the complaint duly supported by an affidavit admitting that the said motor vehicle was insured by them, that the vehicle met with an accident and that the damages were got assessed by them through a Surveyor to the tune of Rs. 2,59,500/-. However, on verification it was found that the driver Rajesh Kumar held a driving licence only for motor cycle and light motor vehicle and did not have a valid and effective driving licence for Matador. Moreover, 4 persons in addition to the driver, cleaner and 3 labourers were found riding the vehicle at the time of the accident. Thus the claim being in violation of the provisions of the Motor Vehicles Act and terms of the policy was not allowed. THE intimation dated 15.11.1994 regarding disallowing the claim sent to the appellant/complainant appears to have been acknowledged by him on 15.11.1994. The facts not in dispute are that the appellant had obtained a Motor Vehicle Insurance Policy No. 31/450307/10393 valid for the period from 25.3.1994 to 24.3.1995 from the respondent-opposite party for a Matador vehicle bearing registration No. MP23/D 5198 owned by him. The said vehicle met with an accident on 22.4.1994 near village Kapa, Police Station Tumgaon.

4. THE learned District Forum has examined the above facts in detail in the impugned order. The first question to be decided is whether the complaint is barred by time as provided under Section 24(a) of the Consumer Protection Act, 1986. The appellant has claimed that the cause of action arose on 30.6.1999, the date of sending a written letter to the respondent/opposite party. Undisputedly the date of accident to the said vehicle is 22.4.1994. The decision regarding repudiation of the appellant/complainant's claim taken on 6.10.1994 appears to have been communicated to the appellant/complainant on 6.10.1994 itself and again on 15.11.1994. This is borne out by the acknowledgement on the xerox copy of repudiation letter filed by the respondent/opposite party. It is also noted that the appellant/complainant has not challenged the said document. Thus the letter addressed to the respondent/opposite party, sent on 30.6.1999 mentioning that his claim has neither been decided nor intimation sent to him in this regard, appears to be far from correct in view of the acknowledgement of the appellant himself on record. Hence cause of action arose on the date of communication of repudiation by the respondent/opposite party i.e. 6.10.1994. The letter dated 30.6.1999 cannot and does not extend the prescribed limitation of 2 years from the date on which cause of action arose.

5. THUS in our opinion the complaint filed after a delay of more than 5 years is barred by limitation. There is no application for condonation of delay. Therefore, the learned District Forum has rightly rejected the complaint.

6. THE appeal being without substance is dismissed. Appeal dismissed.