
(2002) 12 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

TIRUPATI BALAJI COLD STORAGE AND ICE FACTORY

APPELLANT

Vs

NEW INDIA ASSURANCE CO.

RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:

Citation : 2002 0 NCDRC 78 : 2003 0 CTJ 498 : 2003 1 CPC 622 : 2003 1 CPJ 187 : 2003 1 CPR 334 : 2003 2 CLT 556

Hon'ble Judges : D.P.WADHWA , B.K.TAIMNI , J.K.MEHRA , RAJYALAKSHMI RAO J.

Advocate : M.M.SHARMA , R.A.PADMANABHAN , S.JANANI

Judgement

1. IN this complaint which pertains to insurance claim, there is a claim over Rs. 2.50 crores towards damages.

2. WRITTEN version has since been filed by the Insurance Company, first opposite party as well as by the Central Bank of India, second opposite party. Rejoinder thereto has also been filed. We have examined the matter. There is denial of the insurance policy altogether. Complaint raises complex questions of facts and law. Evidence, both oral and documentary will have to be led. This complaint in our view cannot be decided in our summary jurisdiction. In this we are fortified with the decision of the Supreme Court in the case of Synco Industries v. State Bank of Bikaner and Jaipur and Ors., I (2002) Consumer Protection Judgments 16 (SC) = I (2002) Supreme Laws Today 214 = (2002) 2 SCC 1, where a three-Judges Bench of the Supreme Court observed as under: "Given the nature of the claim in the complaint and the prayer for damages in the sum of Rupees fifteen crores and for an additional sum of Rupees sixty lakhs for covering the cost of travelling and other expenses incurred by the appellant, it is obvious that very detailed evidence would have to be led, both to prove the claim and thereafter to prove the damages and expenses. It is, therefore, in any event, not an appropriate case to be heard and disposed of in a summary fashion. The National Commission was right in giving to the appellant liberty to move the Civil Court. This is an appropriate claim for a Civil Court to decide and

obviously, was not filed before a Civil Court to start with because, before the Consumer Forum, any figure in damages can be claimed without having to pay Court-fees. This, in that sense, is an abuse of the process of the Consumer Forum."

We will, therefore, not entertain this complaint and rejected the same. However, we leave the complainant to go to Civil Court or any appropriate Forum for the relief claimed. In that eventuality complainant may seek exclusion of time spent before this Commission, under Section 14 of the Limitation Act, in view of the judgment of the Supreme Court in the case of Laxmi Engineering Works v. PSG Industrial Institute, II (1995) Consumer Protection Judgments 1 (SC) = (1995) 3 SCC 583.