(1991) 03 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

TRIPTA APPELLANT

Vs

United India Insurance Co. RESPONDENT

Date of Decision : 20-03-1991

Acts Referred:

Citation : 1991 0 CPC 147 : 1991 1 CPJ 574

Hon'ble Judges : R.N.Mittal , B.L.Anand , Avtar Pennathur J.

Final Decision : Complaint dismissed

Judgement

1. THIS complaint has been filed by Dr. Tripta against United India Insurance Company for recovery of Rs. 3,27,3 20/-. It is alleged by her that she got her car No. DIA 9188 Olds Mobile Omaga insured on 13.7.87 with the respondent for a sum of Rs. 2,14,600/-. During the continuance of the insurance, the car was stolen on 28th January, 1988 at Ghaziabad and she lodged a complaint with the P.S. Kotwali at Ghaziabad which was registered on the same date. The police could not trace out the car and subsequently issued a certificate that it was not traceable.

2. THE complainant further alleged that she lodged a claim with the respondent but she had not been paid the claim. Consequently she made the above said complaint The respondent has contested the claim and inter alia pleaded that they made thorough investigation in the matter and came to the conclusion that the car had not been stolen and that the certificate from the police had been obtained by manipulation. It is further stated that after the investigation by the surveyor, he came to the conclusion, that the petitioner failed to establish loss. They have pleaded that in the circumstances the Commission should not entertain the claim.

The question that arises for determination is whether this Commission can entertain the present claim of the complainant. The respondent has filed affidavit that the matter was properly investigated by them and thereafter the claim of the complainant was rejected. In these circumstances it can not be said that the Insurance Company did not apply its mind fully while repudiating the claim of the claimant. Taking into consideration the facts of the case we are of the view that this matter should be adjudicated upon by the Civil Court. In summary proceedings it is not possible for us to adjudicate the matter.

3. IN the above said view we are fortified by the observations of the National Commission in M/s Janta Machine Tools v. Oriental INsurance Company (Original Petition No. 12 of 1990) decided on 21st August ''90. The following observations may be read with advantage. "From the facts disclosed by the record and particularly the averments contained in the counter affidavit filed by the first respondent it is seen that the INsurance Company had fully investigated into the claim put forward by the complainant, got surveys conducted and had finally come to the conclusion that the claim put forward by the complainant was false and accordingly informed the complainant that his claim was rejected. Thus this is not a case where the INsurance Company did not take prompt and necessary steps for deciding the claim under the policies of insurance. It may be that the complainant is not satisfied with the said rejection of his claim by the INsurance Company. Having regard to the facts and circumstances of this case and the nature of the controversy between the parties we consider that this is a matter that should be adjudicated before a Civil Court where the complainant as well as the respondent will have ample opportunities to examine witnesses at length, take out Commission for local inspections etc. and have an elaborate trial of the case." Consequently we dismiss the complaint subject to observations that the complainant may file a civil suit for recovery of the disputed amount if so advised. No order as to costs. Complaint dismissed.