(1999) 03 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

United India Insurance — APPELLANT

Vs

JAWAHAR LAL GOJA — RESPONDENT

Date of Decision : 12-03-1999

Acts Referred:

Citation : 1999 3 CPJ 243

Hon'ble Judges : T.S.Doabia , G.D.Sharma J.

Final Decision : Appeal disposed of

Judgement

1. AN insurance cover to the extent of Rs. 5 lakhs was provided vis-a-vis belongings belonging to the complainant-respondents. The Insurance Policy was valid from 29th December, 1994 to 28th December, 1995. The house of the complainant respondent was damaged by fire on 13th May," 1995. The information regarding this was given to the appellant. A Surveyor was also appointed to assess the loss. The Surveyor sought some information from the complainants. This was also made available. As the claim was not settled, the complainants approached the State Commission constituted under the Jammu and Kashmir Consumer Protection Act of 1987. The State Commission has come to the conclusion that the loss sustained by the complainants was to the extent of Rs. 2,32,629/-. Interest @ 18% has also been allowed. For arriving at the figure of quantum of loss, the report submitted by the Surveyor was also taken note of.

2. THE plea put across by the Insurance Company that the complainant was not able to indicate the ownership regarding the property was negatived. This was done on the ground that the Surveyor had submitted in its report that the complainant alongwith wife and other family members was staying in the house. He submitted that the documents of title were left in the house and these were also destroyed. This plea of the complainant was believed and compensation as indicated above was allowed. THE Insurance Company is challenging the order passed by the State Commission. This is being challenged on the ground that there was no proof regarding the ownership of the building as to how old the

building was. As information was sought from the complainant in this matter and as there was failure on the part of the complainant to give these informations, therefore, it was urged that it could not be said that there was deficiency on the party of appellant Company. It be seen that the Insurance cover was issued for a sum of Rs. 5 lacs. It is at this stage, i.e. the stage at which Insurance cover is issued, the Insurance Company should have gone into the question regarding the ownership and the value of the building. Having insured the property for a sum of Rs. 5 lacs, it had to be presumed that the Insurance Company at that point of time had satisfied itself regarding the value of the property in question. Having issued the insurance cover it would not be apt for the appellant Company to raise a dispute which has now been raised.

In this view of the matter, we do not find any justification to interfere with the quantum of compensation assessed by the State Commission in favour of complainants.

3. SO far as the rate of interest and some other issues are concerned, these have been considered in detail in C.I.M.A. 61/95 titled M/s. Oriental Insurance Company Limited & Anr. v. Sh. Pyare Lal Koul, decided by this Court on 13.11.1998. The conclusions which have been arrived at are as under : (i) that the rate of interest should be 12%; (ii) that this should be payable two months after the Surveyor has submitted its report; (iii) that if the Divisional Forum or the State Commission comes to a conclusion that there is inordinate delay caused by the Insurance Company and the proceedings have lingered on, on account of dilatory tactics adopted by the Insurance Company, then it can award even higher rate of interest, but in doing so, reasons would have to be mentioned; (iv) that so far as the proceedings are concerned, these can be conducted by two Members. The presence of President is not necessary; (v) that the lacuna in the matter of the order having been not signed by all the Members, stood validated by the Validation Act. Section 16-A which was brought on the Statute Book validates the proceedings which were not in confirmity with the Act as it originally existed; (vi) that the order signed by two Members is to be taken as a valid order; (vii) that the argument that the President heard the argument and the other Members signed the order later on, cannot be looked into in this appeal. This appeal is accordingly disposed of with the direction that the complainants would be compensated in terms of the quantum of compensation assessed by the State Commission. But the rate of interest would be 12% payable from the date as indicated above.

Appeal disposed of.