
(2015) 12 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

Case No : 513 of 2012

UNITED INDIA INSURANCE CO. LTD & ANR

APPELLANT

Vs

MOHD. JAMILUDIN KHAN & ANR

RESPONDENT

Date of Decision : 08-12-2015

Acts Referred:

Citation : 2016 1 CPR 280

Hon'ble Judges : K.S. Chaudhari

Advocate : Ravi Bakshi, M.P. Verma, A.P. Mukundan

Judgement

1. This appeal has been filed by the appellant against the order dated 10-02-2012 passed by the Learned State Commission in Complaint No. 89 of 2009 - Mohd. Jamiludin Khan Vs. United India Insurance Co. Ltd. & Ors., by which complaint was allowed.

2. Brief facts of the case are that the complainant/respondent no. 1 filed complaint against appellants/O.P. Nos. 1 & 2 and Respondent No. 2/Opposite Party No. 3 on account of damage to insured stock and premises due to fire and learned State Commission vide impugned order allowed complaint and directed Opposite Party No. 1 & 2 to pay Rs.53,65,000/- as compensation along with interest of Rs.1,12,000/- against which this appeal has been filed along with application for condonation of delay.

3. Heard learned counsel for the parties finally at admission stage and perused the record.

4. As there is delay of only 27 days in filing appeal, I deem it appropriate to condone delay for the reasons mentioned in the application and delay stands condoned.

5. Learned counsel for the appellant submitted that without notice to the appellant and without affording opportunity to led evidence learned State Commission committed error in allowing complaint, hence appeal be allowed and

impugned order be set aside and matter may be remanded back to State Commission. On the other hand learned counsel for Respondent No. 1 submitted that order passed by learned State Commission is in accordance with law, hence revision petition be dismissed. Learned counsel for Respondent No. 2 submitted that no liability has been fastened on him.

6. Perusal of record reveals that on 12-05-2010 opposite party no. 1 & 2 filed written statement and opposite party no. 3 had already filed written statement earlier. On 12-05-2010 time was granted to both the parties to file evidence and matter was adjourned to 14-09-2010 for final disposal. It appears that on the application for interim relief filed by complainant matter was taken up on 11.06.2010, 18.06.2010, 15.07.2010, 10.08.2010. On 10.08.2010 complainant was directed to serve notice on opposite party and matter was adjourned for hearing on 26.10.2010. No order sheet dated 14.09.2010 has been placed on record and it appears that matter was not taken up on 14.09.2010. As per order sheet dated 26.10.2010 no one was present on behalf of opposite party no. 1 & 2 and nothing on record to suggest that notices for 26.10.2010 were served on opposite party no. 1 & 2 and matter was adjourned to 02.12.2010. On 02.12.2010 counsel for the complainant was present but there is nothing to suggest that opposite parties were present on that date. Matter was adjourned on 23.02.2011, 09.03.2011, 29.07.2011, 20.05.2011 without mentioning any reason and on 29.07.2011 it was observed that as cause list has been uploaded on website, even then none appeared for opposite party no. 1 & 2, complainant and opposite party no. 3, counsel were heard and matter was reserved for orders and impugned order was passed on 10.02.2012 after 61/2 months.

7. As no order sheet was drawn on 14.09.2010 and inspite of direction of State Commission by order sheet dated 26.10.2010, no notice was served on opposite party no. 1 & 2; there was no occasion to decide complaint without due notice to opposite party no. 1 & 2 only on the basis of uploading cause list on website. It was obligatory on the part of learned State Commission to decide complaint only after proper notice to opposite party no. 1 & 2.

8. As learned State Commission has decided complaint without giving an opportunity of being heard to opposite party no. 1 & 2 impugned order is liable to set aside and matter is to be remanded back to learned State Commission. It would also be appropriate to observe that when arguments were heard on 29.07.2011 on the ground that complaint was of the year 2009, State Commission should not have taken more than 61/2 months in deciding complaint and matter should be decided within short span after concluding arguments.

8. Consequently appeal filed by the appellant is allowed and order dated 10-02-2012 passed by the Learned State Commission in Complaint No. 89 of 2009 - Mohd. Jamiludin Khan Vs. United India Insurance Co. Ltd. & Ors. is set aside and matter is remanded back to learned State Commission to decide complaint afresh after giving an opportunity of filing evidence to opposite party no. 1 & 2 and after giving an opportunity of being heard to all the parties.

9. Parties are directed to appear before State Commission on 11.01.2016.