
(1996) 11 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD.

APPELLANT

Vs

CONSUMER PROTECTION ORGANISATION

RESPONDENT

Date of Decision : 01-11-1996

Acts Referred:

Citation : 1996 0 NCDRC 55 : 1996 3 CPJ 166 : 1997 1 CLT 170 : 1997 1 CPC 248 : 1997 1 CPR 4

Hon'ble Judges : V.BALAKRISHNA ERADI , S.S.CHADHA , R.THAMARAJAKSHI , S.P.BAGLA , C.L.CHAUDHRY J.

Advocate : S.C.SHARDA

Judgement

1. WE have heard Mr. S.C. Sharda, learned Counsel appearing-for the United India Insurance Company. The respondent-Consumer Protection Organisation, Agartala has not appeared before us today but written arguments have been submitted for and on behalf of the respondent which we have carefully perused.

2. ON scrutinising the order passed by the State Commission, Agartala which is under challenge in this case, it is seen that the reasoning of the State Commission is all on the question as to whether the stand taken by the Insurance Company that there had been attempt of the insured to bolster up his claim by production of documents which have been falsified is substantiated or not. There is no discussion at all in the impugned order on the important aspect as to what the quantum of loss sustained by the insured actually was without which it is not possible to quantify the compensation payable to the complainant. Even the reasons given by the State Commission on the point referred to above namely whether the insured had been guilty of falsifying the documents for the purpose of supporting the claim put forward by him before the insurer, do not appear to us as cogent or convincing. The insured has produced certain vouchers and cash memos allegedly evidencing the purchase of articles by him for the purpose of his business and after consideration of the genuineness of those vouchers and cash memos, the State Commission has observed "therefore, there is reason to suspect the genuineness of the alleged transactions." After stating as

above, however, the State Commission went on to add "however, this may no be conclusive proof of mala fides "

3. ANOTHER aspect considered by the State Commission related to the attempts made by the Insurance Company to verify whether the persons from whom the purchases of articles were alleged to have been made by the insured did really exist and the method adopted by the Insurance Company was to address letters to three of them by Registered Post. The Insurance Company produced before the State Commission two such letters which came back to it undelivered with the postal endorsements thereon which were "not taken today" and on the other letter "the addressee was not known". After making mention of aforesaid endorsements the State Commission has not recorded any finding of its own as to whether the persons to whom the letters were addressed really existed or not and whether the inference drawn by the insurer that there were no such existing persons was justified.

4. APART from the above there was a serious defect in the order of the State Commission to which we have already made advertence namely that it has not at all considered the crucial question as to what was the quantum of the loss suffered by me insurer as a result of the fire that has taken in his premises. The ascertainment of the quantum of loss was a sine-qua-non for the award of compensation which had to be quantified on the basis of the estimation of the loss. For all the reasons stated above we are constrained to hold that the disposal of the case by the State Commission cannot be regarded as one satisfying the requirements of law. The order of the State Commission is accordingly set aside and the case is remanded to it for de-novo disposal on the merits, in the light of the observations made above. We make it clear that we are not expressing any opinion whatever on the question as to whether or not the persons to whom the letters were addressed did exist or whether the vouchers and the cash memos produced by the insured were genuine or not. The parties shall appear before the State Commission, Agartala on the 15th January, 1997 to take orders from the State Commission as to the date on which it will find convenient to take up the case de-novo. The appeal is allowed as above. No costs.