(1995) 08 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

United India Insurance Co. Ltd. APPELLANT

Vs

MAHESH KUMAR RESPONDENT

Date of Decision : 07-08-1995

Acts Referred:

Citation : 1995 3 CPJ 317 : 1996 1 CPR 123

Hon'ble Judges : M.R.Agnihotri , S.Kulwant Singh J.

Final Decision : Appeal dismissed

Judgement

1. - AFTER hearing the learned Counsel for the appellants we find that the learned District Forum, Gurgaon has rightly allowed the complaint and has found the complainant entitled to the amount of Rs. 9,780/- alongwith 15% interest thereon.

2. THE complainant is a shop-keeper and deals in the goods like camera, light flash, photo-films etc. He got these articles of photography insured for Rs. 25,000/-. On 25th of September, 1994 when he was just away for his shop for about 15 minutes and had just gone to the nearby shop, a theft took place in his shop and one camera alongwith flash gun worth Rs. 16,700/- was stolen. He lodged the report with the police and when the theft remained untracked, the complainant approached the District Forum for realisation of Rs. 16,700/- on account of loss of goods. THE opposite party-Insurance Company contested the complaint by pleading, that inspite of there being a specific term in the policy, the insured-complainant did not take proper care of the property as he had gone to a nearby shop leaving his own shop unattended, hence he was not entitled to any claim. After going into the matter and appraising the documentary evidence, learned District Forum came to the conclusion that there was no negligence or lack of care on the part of the insured and the Insurance Company cannot escape the liability. It is a matter of common knowledge that the shop-keepers in the course of their business are generally required to go to a neighbour''s shop and every time a shopkeeper leaves a shop, it is not possible for him to put down the shutter or to lock the shop. Therefore, if the complainant had to leave the shop

for few minutes and the theft had taken place during that very period, the Insurance Company must make good the loss. Consequently, we uphold the order of the learned District Forum and dismiss the appeal with no order as to costs. Appeal dismissed.