(2013) 08 NCDRC CK 0079

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD — APPELLANT

Vs

M/S. Naveen Sales (India) — RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Citation : 2013 0 NCDRC 561 : 2013 4 CPJ 151

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : V.S.Chopra , VIVEK GUPTA

Judgement

1. THIS revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 by the petitioner against the impugned order dated 30.03.2012, passed by the Punjab State Consumer Disputes Redressal Commission (for short ''the State Commission '') in FA No. 970/2008, United India Insurance Co. Ltd. versus M/s. Naveen Sales (India), by which, while dismissing appeal, the order passed by District Consumer Disputes Redressal Forum, Ludhiana in complaint no. 334/4.5.2005 allowing the complaint and ordering the petitioner to pay Rs.13,31,181/- along with interest @ 9% p.a. from the date of filing the complaint till payment along with a compensation of Rs.10,000/- and litigation cost of Rs.2,000/- was upheld.

2. BRIEF facts of the case are that the petitioner issued an insurance policy number 201002/11/03/00372 called ''Standard Fire and Special Perils Policy '' in favour of the complainant / respondent for a sum of Rs.20.50 lacs for the period 17.3.2004 to 16.03.2005. Out of this amount of Rs.20.50 lacs, Rs.20 lacs was meant for stocks of all kinds of sofa material, curtains cloth, mattresses, pillows, cushions, towels, bed sheets, etc., and Rs.50,000/- was the coverage for furniture, fixtures, fittings and electrical items. During the currency of the policy, fire occurred on 19.09.2004 at about 3:30 a.m. and the respondent estimated the loss to be Rs.20,68,090/-. An intimation was given by the respondent to the local police on the date of the fire and the insurance company was also intimated. The petitioner insurance company appointed a surveyor to assess the loss. Vide his report dated 29.01.2005, the surveyor assessed the loss at

Rs.10,80,770/-. The surveyor also pointed out that at the time of loss, there was construction going on in the shop on the first and second floors of the building. In order to supply electric current to first and second floor, electric wires had been put on the main electric meter for the shop, which resulted in probable short-circuiting, leading to fire. The petitioner repudiated the claim, saying that there was violation of conditions of the policy, because construction was going on in the premises. The complainant filed a consumer complaint before the District Forum which was allowed by the said Forum and compensation as stated in the foregoing paragraph was allowed. The District Forum reached the conclusion that as per physical verification, there was stock worth Rs.18,04,468/-, out of which stock worth Rs.4,73,287/- was lying safe in the godown. After deducting this amount of Rs.4,73,287/-, the District Forum ordered to pay Rs.13,31,181/- along with interest @ 9% p.a. and compensation as stated above. An appeal against this order was also dismissed by the State Commission. It is against this order that the present revision petition has been filed. Heard the learned counsel for the parties and examined the record.

3. THE learned counsel for the petitioner argued that the complainant had violated the terms and conditions of the policy by carrying out construction activity on the premises. He has drawn our attention to portion B of the warranties, forming part of the policy, in which it is stated under condition 3(a) that if a change or alteration is made in the building containing the insured property, so as to increase the risk or loss or damage by insured perils, it shall constitute violation of the terms and conditions of the Policy. The learned counsel further argued that in the present case, only the stocks and furniture etc. had been insured and not the building containing such stocks. As made out from the report of the surveyor, the cause of fire was short-circuiting due to construction activity going on at the premises.

4. LEARNED counsel for respondent stated, however, that there was separate electric connection for ground and first, floors. The construction activity had nothing to do with the fire, in question. He further maintained that the complainant was not required to obtain the permission of the petitioner/OP before starting the construction, and there was no such clause in the terms and conditions of the Policy. The facts of this case bring out that construction activity was being carried out at the premises in question and as per the surveyor ''s report, the probable cause of fire could be due to short-circuiting, but we agree with the findings of the District Forum and State Commission that in this case also, the insurance company cannot escape responsibility to pay the claim under the Policy. We do not agree with the contention of the petitioner that the construction activity had resulted in increased risk for the insured stocks in question. It has also been made clear that there are separate electric connections for the ground floor and first floor and there are separate electricity meters for the same. It is not clear anywhere that the insured was required to obtain permission of the insurance company before starting the construction. The District Forum in their order have rightly assessed the value of the total stocks,

in question and the value of the stocks lying safe in the godown, and allowed the claim after taking into consideration both these values. We, therefore, find no illegality or irregularity in the orders passed by the District Forum and State Commission which reflect true appreciation of the facts and circumstances on record. These orders are, therefore, upheld and the present revision petition stands dismissed with no order as to costs.