(2001) 04 NCDRC CK 0004

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD. APPELLANT

Vs

PREMNATH, PREM NATH AND SONS RESPONDENT

Date of Decision : 11-04-2001

Acts Referred:

Citation : 2001 0 NCDRC 31 : 2001 2 CPC 258 : 2001 2 CPJ 29 : 2001 2 CPR 35

Hon'ble Judges : D.P.WADHWA , B.K.TAIMNI , C.L.CHAUDHRY , J.K.MEHRA J.

Advocate : VISHNU MEHRA , RANI CHHABRA

Judgement

1. THIS revision petition has been filed by United India Insurance Company Ltd. against the order of Punjab State Consumer Disputes Redressal Commission. The brief facts of the case are that the respondent in this case had taken a Jewellers Block Policy for Rupees ten lakhs to cover loss of the stock covering the period of 4th November, 1995 to 3rd November, 1996.

2. ACCORDING to the respondent, they suffered a loss of 740 grams of gold on 15.12.1995 when their employee was robbed of the above quantity of gold ornaments at pistol point at Abhinandan Hotel, Muzzafarpur in Bihar where the employee had gone to sell the ornaments. Upon lodging of claim by the respondent on the petitioner Company, the latter repudiated the claim on the ground that the respondent had taken risk cover under Section II of the Jewellers Block Policy, the bare reading of which makes it clear that the movement of jewellery is restricted within the city itself whereas the present claim emanates from the loss suffered in Bihar, which according to the petitioner Company is not covered by the present insurance policy taken by the respondent. The respondent filed a complaint with the District Consumer Forum at Amritsar which accepted the plea of the petitioner Company and dismissed the complaint. In appeal, the State Commission set aside the order of the District Forum and allowed the complaint filed by the insured consumer before the District Forum, i.e. directing the opposite party - the petitioner Company before us to pay the amount of Rs. 3,69,554.60 ps. with interest @ 18% p.a. from 15.4.1996 onwards on the said amount as compensation, litigation expenses, harassment,

etc. It is against this order that the petitioner Company is before us.

3. THE main plea of the revision petitioner is that the insured is covered under Section II of Schedule ''B'' of the Policy which does not permit the policy-holder to move the jewellers outside the city limits of Amritsar, within the meaning of the insurance policy. In order to cover such a contingency, the policy-holder had to take policy under Section-III of the Schedule. It is also their plea that Section II clearly stipulates that "if stock with any one person specified in Section II of the Schedule exceeds Rs. 2.00 lakhs, it shall be secured under an inbuilt lockers of a steel cupboard after business hours at all times". This was also not adhered to. Loss occurred in the hotel premises when the said jewellery was not secured in the manner prescribed. Based on the above, repudiation was in order based. It was only after complete appreciation on the part of the District Forum that it dismissed the complaint. It is the failure of appreciation on the part of the State Commission of the above points which has led to erroneous findings and erroneous order which needs to be set aside.

4. ON the other hand, the arguments advanced by the learned Counsel for the respondent is that nowhere in the policy it is stipulated that jewellery cannot move out of the city of Amritsar. Section III covers the risk in transit when it is being sent under registered Insured Parcel Post or by Air Freight. None of these conditions applied in this case, hence are not valid for use against the respondent. Learned Counsel also argued that the jewellery was kept secured in almirah in the hotel, it was a threat to their life which saw the jewellery being removed from their custody in the hotel room. According to her, the State Commission was perfectly justified in setting aside the order of the District Forum and ordering in respondent''s favour. The State Commission has passed a well-reasoned order and needs to be maintained while dismissing the revision petition. We have gone through the material on record and heard the arguments. In our view, two documents are relevant - the Insurance Policy and the Letter of Repudiation. It is an admitted fact that the respondent was covered by Section II of Schedule ''B'' of the Policy which is reproduced below : Section II Limit for any one loss (a) Property insured whilst in Rs. 10,00,000/- the custody of the insured, his partners Directors, duly Constituted Attorneys, his employees or sorters of Diamonds. (b) Property insured excluding Rs. cash and currency notes whilst in the custody of persons not in regular employment of the insured such as brokers or cutters of goldsmiths. (1) Warranted that if stock with any one person specified in Section II of the schedule exceeds Rs. 2 lakhs it shall be secured under an inbuilt lockers of a steel cupboard after business hours at all times. (2) Warranted that the sum insured this section should not exceed the gross sum insured under Section I. We do not see a whisper about the main contention of the petitioner about to use the words in the letter of repudiation "...... bare language of the said section (Section II) makes it amply clear that the movement of jewellery is restricted within the city itself ......". We have made repeated attempts to ascertain the ''Restrictive'' clause in Section II reproduced above. We are afraid that we have not been able to see a word about any

restriction clause as is made out by the petitioner Company in its letter of repudiation and its pleas before us. Section III of the Schedule is clearly not applicable in this case as it does not involve a case of despatch by post or by air.

5. THE letter of repudiation - reflecting the collective wisdom and will of the Company is not supported by the ''bare language'' of Section II. In our view there was no restriction on the movement of jewellery outside the city. To the contrary, we see at the bottom of Schedule A of the Policy - "Geographical Area : Indian Union". Bare reading of this clearly shows the area of covered was Indian Union. Since the letter of repudiation is based on this single factor which is neither supported by any document nor by bringing any other material on record, we are inclined to agree with the findings and reasoned order of the State Commission. Plea about its secure custody as per Section II of Schedule appears to be an afterthought and is not reflected in the grounds or repudiation, the absence of which we are not inclined to look into it at this stage. The revision petition is dismissed and the order of the State Commission is maintained. No order on costs.