(2012) 02 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD APPELLANT

Vs

Randhawa Singh RESPONDENT

Date of Decision : 13-02-2012

Acts Referred:

Citation : 2012 0 NCDRC 756 : 2012 2 CPJ 1 : 2012 2 CPR 178

Hon'ble Judges : S.K.NAIK J.

Final Decision : Appeal petition stands disposed

Judgement

1. , PRESIDING Member: 1. Heard the learned Counsel for the petitioner and the respondent/complainant, who has appeared in-person. Respondent/complainant states that he has not been paid the amount of Rs. 5,000 as directed by this Commission. Counsel for the petitioner submits that the sum of Rs. 5,000 has been sent to Regional Office (Lydian) for being dispatched at the home address of the respondent/complainant. In case the draft is returned undelivered, the Counsel undertakes to send the draft to complainant ''s army address.

2. MAIN grievance of the respondent/complainant in the present case is that his insured vehicle met with an accident. Even though a Surveyor was appointed by the petitioner Insurance Company, the Surveyor never gave him or apprised him about his report. On the contrary, the Surveyor persuaded him to accept a sum of Rs. 74,000 on cash-loss basis and settle the matter. Even though the complainant was not quite satisfied with the said offer, believing the version of the Surveyor that the offered amount shall be paid within a month, he agreed to issue a letter dated 15.9.2004, stating therein that the proposal of Rs. 75,000 as cash-loss basis is acceptable to him. Otherwise, he had indicated the figure of Rs. 1 lakh on account of total loss basis. The respondent/complainant submits that so persuasive was the Surveyor ''s behavior that he believed him to be true to his words but the facts turned out otherwise. The Insurance Company neither reimbursed the repair charges as offered by the Surveyor and dragged on the matter for years together. At one stage they even tried to fabricate a false charge of the complainant ''s driving license being invalid, just to harass him. This,

however, they could not prove from the concerned transport authority. He, therefore, contends that being a serving defence officer, he has been put to enormous harassment and mental agony for which the compensation awarded by the State Commission is just and appropriate. Learned Counsel for the petitioner on the other hand has relied upon the same letter dated 15.9.2004 and has contended that the complainant being an educated person having given the offer for settlement, could not now go back and say that it was under coercion. His further contention is that the report of an independent Surveyor was rightly relied upon by the District Forum and for the period of delay, he has been awarded interest @ 12% p.a. which is more than sufficient to the injury/damage caused to the complainant. According to him the report of the independent Surveyor should not have been discarded by the State Commission as it carries sufficient weightage for determination of the compensation. He, therefore, prays that the order of the State Commission being highly irregular and beyond jurisdiction be set aside.

3. HAVING considered the points raised by the respondent/complainant and the Counsel for the petitioner and having regard to the facts and circumstances of the case, in particular, the attempt of the petitioner Insurance Company to raise a false claim of the complainant ''s driving licence being invalid and further that even the report of the Surveyor was not produced before the Fora below, this Commission is of the view that the case being made out by the petitioner is not as simple as is being made out to be. Non-production of the Surveyor ''s report before the Fora below and the attempt to raise a false claim of the driving licence of the petitioner being invalid definitely goes to show that the petitioner Insurance Company has not been fair in its dealing with the complainant. Recommendation of the Surveyor on which they have depended upon, though may carry some weight in the determination of the compensation, it is not sacrosanct or binding on the insurer. All the same, the compensation of Rs. 2,59,400 with 9% interest as awarded by the State Commission is on the higher side and needs to be moderated.

4. TAKING the totality of the facts and circumstances of the case, this Commission is of the view that a lump sum compensation of Rs. 2,00,000 would be appropriate amount to meet the ends of justice. The respondent/complainant states that he has already received a sum of Rs. 75,000 from the District Forum. The petitioner Insurance Company has deposited a sum of Rs. 1,50,000 with this Commission. The Registry is accordingly directed to disburse a sum of Rs. 1,25,000 out of this deposited amount to the respondent/complainant and remit/ refund the balance amount of Rs. 25,000 along with interest, if any, accrued thereon to the petitioner Insurance Company. The revision petition stands disposed of in above terms. Revision Petition disposed of.