
(2004) 03 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO. LTD.

APPELLANT

Vs

SAURABH RESORTS PVT. LTD.

RESPONDENT

Date of Decision : 16-03-2004

Acts Referred:

Citation : 2004 0 NCDRC 17 : 2004 2 CLT 655 : 2004 2 CPC 148 : 2004 3 CPJ 16

Hon'ble Judges : K.S.GUPTA , B.K.TAIMNI , RAJYALAKSHMI RAO J.

Advocate : RAVINDER ZADOO , P.K.Kaushik

Judgement

1. THIS appeal is directed against the order dated 4.12.2002 of Consumer Disputes Redressal Commission Uttaranchal, Dehradun whereby appellant/opposite party was directed to pay Rs. 7,19,000/- with interest @ 12% p.a. from 1.4.2000 and cost.

2. FACTS giving rise to this appeal lie in a narrow compass. Respondent filed complaint alleging that car No. UP 14 J 9797 was purchased by it from M/s. Prime Honda Capital Cars (P) Ltd. Car was insured with the appellant for Rs. 7,16,000/- upto the period 13.1.2000. On its way to Delhi from Haldwani the car met with an accident with a truck near village Sukhera, PS Simboli on 1.1.2000. Appellant offered to pay on total loss basis after a lapse of 11 months an amount of Rs. 5,25,000/- as against the claimed amount of Rs. 7,16,000/- which was not accepted by the respondent. On complaint being filed, the appellant contested it by filing written version. It was not denied that car was insured for a sum of Rs. 7,16,000/- and it met with accident on 1.1.2000. However, it was pleaded that survey of car was made twice and on total loss basis, an amount of Rs. 5,25,000/- was approved and the appellant was not guilty of any delay in settling the claim. Relying on the decision in Oriental Insurance Co. v. Suresh Aryan Karande, II (1992) CPJ 484 (NC), the submission advanced by Mr. Ravinder Zadoo for appellant was that the car was of 1998 model and on total loss basis the respondent is entitled to the market value on the date of accident thereof and not the amount for which it was insured. As to the market value of car he invited our attention to the Surveyor's report dated 30.6.2000. In view of ratio

in Suresh Aryan Karande's case (supra), the respondent is entitled only to the market value of car at the time of accident which was estimated in said report which we have no reason to disbelieve, at Rs. 5,25,000/- which amount is payable only on return of salvage by the respondent. State Commission before whom said decision rendered by this Commission was also cited, was bound by it. Impugned order, thus, deserves to be modified to that extent.

3. ACCORDINGLY , while partly allowing appeal, the order dated 4.12.2002 is modified to the extent that appellant will pay Rs. 5,25,000/- on total loss basis on return of salvage by the respondent. No order as to cost.