(2005) 05 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE COMPANY — APPELLANT

Vs

New India Rubber Works — RESPONDENT

Date of Decision : 03-05-2005

Acts Referred:

Citation : 2005 2 CPC 703 : 2005 2 CPR 597 : 2005 4 CPJ 446

Hon'ble Judges : R.S.MONGIA , C.P.BUDHIRAJA , JASBIR KAPOOR J.

Judgement

1. BRIEF facts giving rise to this appeal at the behest of United India Insurance Company may be noticed.

2. THE respondent -complainant (here -inafter to be referred as the complainant) was the owner of Maruti -800 car bearing Registration No. CH -01 -Q -5976, which was purchased by him in January, 1997. The said vehicle was insured with the appellant Insurance Company in the sum of Rs. 1,30,000. The insurance policy was valid from 7.8.2001 to 6.8.2002. It may be mentioned that it is not disputed before us that while doing the insurance the vehicle was insured for Rs. 1,20,000 and Rs. 10,000 was for the electric accessories. The premium was charged for the price of the car as well as for the accessories as valued above. Unfortunately, the car was stolen on 13.5.2002 and intimation in that regard was sent to the Insurance Company on 15.5.2002. Along with that a copy of the F.I.R. No. 40, dated 13.5.2002 lodged with Police Station Kotwali, District Amritsar and the Registration Certificate were enclosed. The Insurance Company assessed the value of the vehicle on the basis of the report of the Surveyors at Rs. 85,000. The amount as claimed having not been paid by the Insurance Company, the complainant filed a complaint before the District Consumer Disputes Redressal Forum, Amritsar (hereinafter referred to as the ''District Forum''). The stand taken by the Insurance Company before the District Forum was that the Surveyor had assessed the value of the car at Rs. 85,000 and the Insurance Company was ready to pay 75% of the assessed value and the balance of 25% of that value would be paid on the completion of the formalities by the complainant, including the submission of untraced report. There is nothing

on the record to show that the Insurance Company on its own sent the amount of 75% of the assessed value by way of cheque/bank draft or by other means to the complainant. The District Forum vide the impugned order dated 18.12.2004 allowed the complaint and the Insurance Company was directed to pay a sum of Rs. 1,30,000, i.e. the insured value of the vehicle/accessories and Rs. 1000 as cost of litigation. Hence the present appeal by the Insurance Company. Learned Counsel for the appellant argued that the District Forum went wrong in awarding Rs. 1,30,000, i.e. the value of the insured vehicle, which included cost of accessories. In fact, what was payable to the complainant was the insured estimated value or the market value, whichever was less. Since in this case the market value of the vehicle had been got assessed by two Surveyors who had assessed the value at Rs. 85,000, it was that amount which was payable to the complainant.

3. ON the other hand, learned Counsel for the complainant argued that the Surveyor cannot assess the market value of a vehicle which has been stolen inasmuch as the vehicle is not before the Surveyor or the person who is evaluating its value. Further, it was submitted that perusal of the report of the Surveyors Exhibits R. 4 and R. 5 would go to show that nothing has been mentioned about the assessories for which insurance was also done and separate premium paid.

4. WE are of the view that in case of total loss of a vehicle by accident or the loss of a vehicle due to theft, some methodology has to be adopted to find out the market value. In such circumstances, normally the value of the vehicle is to be found out in the market of a similar model of the vehicle in reasonably good condition inasmuch as the vehicle itself is not available for assessment of the value as the same has been stolen or the same is a total loss. In the present case, the Surveyor in report, Ex. R. 4, has stated that he had checked up the value of a similar model from the market and had found that such a vehicle would cost about Rs. 85,000 and that is how that value was assessed. We find nothing wrong in this methodology having been adopted. As per the policy what is payable to the insured is the Insured Estimated Value (IEV) or the market value, whichever is less. However, the question still remains is that nothing has been stated about the accessories while getting the market value of vehicle assessed. In these circumstances, we are of the view that if we subtract 25% as the depreciation on the value of the accessories, the value of the accessories payable would be Rs. 7500. In other words, the amount payable on the basis of the insurance to the complainant would be Rs. 92,500 (Rs. 85,000 as the market value of vehicle + Rs. 7,500 for the accessories).

5. THE next question then arises is: Is the complainant entitled to interest on the aforesaid amount of Rs. 92,500 on the facts and circumstances of this case? The report was lodged by the complainant with the Insurance Company on 15.5.2002 i.e. immediately after the theft and along with that a copy of the Registration Certificate and F.I.R. were also enclosed. The Insurance Company got the value

of the insured vehicle determined through their Surveyors, which was Rs. 85,000. According to Insurance Company it was ready to pay 75% of that amount immediately. Nothing stopped it from offering that amount to the complainant and the balance of that amount i.e. 25% could be paid after the formalities had been completed by the complainant. So far as completion of formalities is concerned, the complainant had never refused to do so. For instance, untraced report was asked for and the same was allegedly submitted on

6. 11.2002; BUT the Insurance Company refused to accept that report on the ground that it was on a plain paper, which was signed by the A.S.I. We fail to understand the ground of refusal to accept the untraced report. In a police station such reports are normally written on a plain paper with a seal of the police station and signed by the Station House Officer of the police station. We have not been shown any proforma in which untraced report is to be submitted by a Station House Officer. In any case the Insurance Company is more concerned about the factum of a vehicle remaining untraced. If such a fact is mentioned on a plain paper, it still remains a fact. F.I.R. is already with the Insurance Company and so is the copy of the Registration Certificate in respect of the vehicle. If any other document was required or any other formality was required to be done, the Insurance Company could have easily asked the complainant to come forward and complete the formalities. Nothing of the sort seems to have been done by the Insurance Company. In these circumstances, we are of the view that the complainant would be entitled to reasonable interest effective from two months after the submission of the initial report with the Insurance Company. In our view, 9% simple interest would be reasonable to be calculated from 15.7.2002 till the date of payment. We order accordingly. 8. Without going into mathematical niceties we assess the amount of interest at Rs. 24,500. The total comes to Rs. 1,17,000 (Rs. 92,500 value of the car and accessories plus Rs. 24,500). Adding to that costs of Rs. 1000 awarded by the District Forum, it comes to Rs. 1,18,000. The appellant -Insurance Company has already deposited a sum of Rs. 1,30,000 with this Commission. Let a sum of Rs. 1,18,000 be disbursed to the complainant by way of bank draft/crossed cheque after 45 days from today. However, the balance amount of Rs. 12,000 be refunded to the appellant by way of crossed cheque/bank draft immediately. The appeal is disposed of in the above terms. The costs awarded by the District Forum are maintained. However, there will be no order as to costs in this appeal. Appeal disposed of.