

(2003) 04 NCDRC CK 0088

In the National Consumer Disputes Redressal Commission

United India Insurance Company Limited

APPELLANT

Vs

SARJEEVAN KUMAR

RESPONDENT

Date of Decision : 04-04-2003

Acts Referred:

Citation : 2004 1 CPC 281 : 2004 1 CPJ 309

Hon'ble Judges : H.S.Brar , C.P.Budhiraja J.

Final Decision : Appeal dismissed

Judgement

1. IT's an appeal against the order dated 23.5.2000 of the District Consumer Disputes Redressal Forum, Ludhiana (hereinafter called the District Forum).

2. IT's not necessary to give all the facts of the case in hand as admittedly the insurance of the vehicle is not disputed. IT's also not disputed that the respondent-complainant (hereinafter called the complainant) had lodged a claim with the appellant-opposite party (hereinafter called the opposite party) and the opposite party had appointed a Surveyor and the Surveyor had assessed the loss. The opposite party had repudiated the claim of the complainant on the ground that the vehicle was being used as taxi in violation of the conditions of the policy. Thus, this is the only point, which needs to be decided in this case as to whether the complainant was using the vehicle as a taxi. The letter of repudiation Ex. A-9 is dated 6.9.1999, as such the only question, which needs determination is as to whether the repudiation is on valid ground. Only evidence produced by the opposite party regarding the vehicle being used as a taxi is the report of Shri M.L. Mahla. Shri M.L. Mahla has simply stated in the report that the vehicle was being used as a taxi since the driver had stated so. It has rightly been held by the District Forum that the report Ex. R-3 is unreliable. The opposite party had not produced the affidavit of the said Investigator. No opportunity was given to the complainant to explain that there was violation of the conditions of the policy. The opposite party had appointed a Surveyor, who after the survey, had assessed the loss and gave the report that the amount of Rs. 48,840/- was payable to the complainant. The Surveyor had submitted his

report on 24.12.1998. Later on the opposite party procured the report dated 14.6.1999 of the Investigator. As already mentioned, the affidavit of the Investigator was not there as such no reliance could be placed on the contention of the opposite party that the driver of the complainant had given a statement that the vehicle was being used as a taxi. Only the affidavit of Shri R.C. Bansal was produced. Shri R.C. Bansal never recorded the statement of the driver and as such there was no evidence that the vehicle was being used as a taxi. Repudiation of the claim of the complainant is not, thus, based on a valid ground. In these circumstances, we do not find any infirmity in the order of the District Forum. This appeal is, thus, dismissed as meritless. Appeal dismissed.