

(2006) 01 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

United India Insurance Company Ltd

APPELLANT

Vs

Krishna Bai

RESPONDENT

Date of Decision : 24-01-2006

Acts Referred:

Citation : 2007 2 CPJ 146

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Advocate : K.L.Nandwani , Varun Thakur

Final Decision : Dismissed

Judgement

1. -THIS revision is directed against the order dated 3. 8. 2004 of Chattisgarh State Consumer Disputes Redressal Commission, Raipur allowing appeal against the order dated 24. 4. 2000 of a District Forum and directing the petitioner/opposite party to pay amount of Rs. 1,01,000 with interest @ 9% per annum and cost to the respondent/complainant.

2. IN short, the facts giving rise to this revision are these, Jeep bearing registration No. MP-26 E 6690 owned by the respondent was comprehensively insured with the petitioner for the period from 27. 9. 1997 to 26. 9. 1998. Jeep met with an accident on 23. 11. 1997 near P. S. Kota and was damaged. Petitioner was intimated of the incident on 24. 11. 1997. Petitioner appointed V. K. Shrivastava as surveyor who submitted the report on 29. 11. 1997. By the letter dated 26. 11. 1998 the petitioner repudiated claim on ground of jeep being plied in breach of terms of policy and driver not holding a valid driving licence. Claiming compensation of Rs. 2,50,700 the respondent filed complaint which was contested by the petitioner on grounds similar to that taken in repudiated letter dated 26. 11. 1998. District Forum dismissed the complaint but appeal filed by the respondent was allowed by the State Commission in the manner noticed above. Contention advanced by Mr. K. L. Nandwani for petitioner was that the State Commission did not consider the affidavits of Sub-Major A. L. Chourasia, Investigator (copy at pages 27-30) and Chand Khan, helper (copy at pages 24-26). It was pointed out that driving licence held by Rajesh Rathore, driver did

not bear endorsement of his being authorised to drive taxi. Order of State Commission would show that application under Order 41 Rule 27, CPC was filed on 20. 2. 2004 by the respondent seeking permission to file the affidavit of said Chand Khan but the same was disallowed. Order further notices that copies of statements of Chand Khan and Rajesh Rathore placed on the file were not taken note of as it was not clear who had recorded those statements. Order also notices that petitioner did not place any reliable material on record to show that jeep was plied for hire and reward by the respondent. Affidavit of Chand Khan which is stated to have not been taken note of by State Commission is presumably the one for which permission was disallowed to the respondent. Further under the garb of affidavit of Investigator the statements of Rajesh Rathore, driver and Chand Khan, helper referred to therein for exclusion whereof sufficient reason was given by the State Commission cannot be taken note of. Mr. Nandwani was unable to point out any cogent evidence led by the petitioner before the Fora below in regard to jeep in question being plied for hire and reward. Amount of Rs. 1,01,000 by way of compensation was awarded by the State Commission treating the claim as non-standard for carrying persons in jeep more than the permissible limit in violation of terms of policy. We do not find any illegality or jurisdictional error in the orders passed by State Commission warranting interference in revisional jurisdiction under Section 21 (b) of the Consumer Protection Act. Accordingly, revision is dismissed with cost of Rs. 3,500 to the respondent. Revision Petition dismissed with cost.