(1993) 07 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

VINAY KUMAR KUCHRULAL ABAD — APPELLANT

Vs

UNITED INDIA INSURANCE CO. LTD. — RESPONDENT

Date of Decision : 26-07-1993

Acts Referred:

Citation : 1993 0 CPC 827 : 1993 0 NCDRC 95 : 1993 3 CPJ 282 : 1993 3 CPR 139 : 1995 2 CLT 288

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

Advocate : A.K.SAKHUJA

Judgement

1. THE complainant in complaint No. 35 of 1990 on the file of the District Forum, Jalna (Maharashtra) is the revision petitioner. The complainant purchased a "Padmini Car,, from Secunderabad on November 4, 1988. While the said car was being driven to Aurangabad on November 6, 1988, it was involved in an accident. The occupants of the car, namely, Shri Dharamchand Jain. Shri Anant Kulkarni and Shri Jitendra Abad sustained injuries and the motor vehicle was also damaged. As on the date of the occurrence of the accident the motor vehicle was covered by a valid policy of insurance issued by the respondent ½ The United India Insurance Company Ltd. The complainant lodged a claim with the Insurance Company in respect of the damage sustained by the vehicle as also the expenses incurred in the treatment of the injured persons. Under the first head, he claimed Rs. 63,960/- on the basis of a preliminary estimate prepared by a surveyor. For medical expenses of the injured persons, the complainant sought to recover Rs. 20,000/- from the Insurance Company besides a further sum of Rs. 1,275/- representing the charges paid for transfort of the damaged vehicle from the site of the accident to the concerned workshop. The District Forum rejected the complainant''s claim for recovery of Rs. 63,960/- as the cost of repairing the car since it was found that the actual expenses incurred for effecting repairs were only Rs. 42,788/-. This finding was confirmed on appeal by the State Commission, Maharashtra.

2. AS regards the claim for reimbursement of Rs. 20,000/- said to have been spent for medical treatment of the injured persons the District Forum allowed the said claim in full. The State Commission, on appeal filed by the Insurance Company upheld the plea advance by the insurer that under the relevant clause of the Insurance Policy, the company had undertaken to pay to the insured only reasonable medical expenses not exceeding Rs. 350/- per person in respect of any one accident. The complainant''s prayer for being awarded Rs. 1,275/- towards transport charges of the damaged vehicle was allowed by the District Forum and the said finding was upheld by the Slate Commission. A further sum of Rs. 3,725/- was awarded to the complainant by the District Forum as compensation for the delay on the part of the Insurance Company in settling his claim. Although the correctness of the said finding of the District Forum was seriously challenged before the State Commission, the State Commission held that there was a delay of 9 months in settlement of the claim which was totally unjustified and therefore, the grant of Rs. 3,725/- as compensation to complainant was justified.

3. IN this revision petition, the complainant appearing in person has alleged before us that the State Commission had acted illegally in interfering with the order of the District Forum awarding to him Rs. 20,000/- by way of medical expenses incurred for the treatment of the injured persons and reducing it to Rs. 350/- per person. We see no merit in this contention. As rightly pointed out by the State Commission. The liability of the Insurance Company is governed by the terms of Policy of Insurance and since the policy expressly stipulates that only a sum not exceeding Rs. 350/- shall be payable by the Company as medical expenses per person in respect of any one accident, it is not legally permissible to direct the Insurance Company to pay any higher amount as was wrongly done by the District Forum. The injured persons have their remedy under the Motor Vehicles Act by claiming compensation before the Motor Accident Claims Tribunal and the right to pursue said remedy is not in any way affected by the finding entered in the present proceedings regarding the limitation of the liability of the Insurance Company.

4. IN the result, we confirm the order passed by the State Commission which is not vitiated by any error of jurisdiction or any material irregularity and dismiss this revision petition. No costs.

