(2002) 03 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

WASEEM AHMED APPELLANT

Vs

ORIENTAL INSURANCE CO. LTD. RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

Citation : 2002 0 NCDRC 76 : 2002 3 CPJ 396 : 2003 1 CPR 115 : 2003 2 CLT 397

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

Advocate : HIMANSHU UPADHYA , A.K.RAINA , R.K.BHARTIYA

Judgement

1. THIS revision petition arises out of the appeal decided by the State Consumer Disputes Redressal Commission, Uttar Pradesh.

2. THE brief facts of the case are that the petitioner is alleged to have obtained a policy of insurance in respect of his vehicle - Maruti Van bearing registration No. DL-4C-1988 on 20th February, 1992. It is further in evidence that the vehicle was stolen between 20/21st February, 1992 in respect whereof the First Information Report was lodged with the police on 21st February, 1992. Since the office of the Insurance Company was closed on Saturday, the information about theft was given to it on 24th February, 1992 which was a Monday. Surveyors were appointed by the Insurance Company on the same day who submitted the report on 29th February, 1993. In between, an Investigator was also appointed by the Insurance Company, who submitted his report on 2nd March, 1993. His investigation also shows that the theft of the vehicle took place on 19th February, 1992 on which date ''shab-e-rat'' was being celebrated. The Investigator reported that the insurance policy was obtained fraudulently suggesting that the cover note was ante-dated. Consequently, the Insurance Company repudiated the claim alleging that the policy had been obtained subsequent to the theft of the vehicle. The Investigator has alleged collusion between the complainant and the Field Officer of the Insurance Company. The District Forum had allowed the claim notwithstanding the above objections and the facts which were brought to its notice, resulting in the theft having taken place prior to the date of the

insurance. Even though there was a delay of 5 days in filing the appeal, the State Commission after hearing the parties condoned the delay and proceeded to hear the case on merits. The letter of repudiation contains the following reasons for repudiating the claim : (a) that the vehicle was already stolen prior to the grant of insurance cover; (b) that the insurance cover had been obtained by fraudulent means. Elaborate reasons have been furnished by the Investigator in his report for reaching his conclusions about the fraudulent means being adopted to issue cover note and also for his conclusion that the theft had taken place earlier. The Investigator had recorded the statements of the people in the vicinity. As a consequence thereof, he had concluded that the theft of the car took place on 19th February, 1992. He had further noticed discrepancies in the issue of cover note from the register. From the record that the Cover Note No. 362 also issued on 20th February, 1992 was so issued at 10.45 a.m. and as noticed that Cover Note No. 362 issued on 20th February, 1992 was issued at 10.30 a.m. which means the subsequent cover note should have shown a later time of issue but had indicated the time prior to the issuance of earlier cover note, though the entry appears subsequent to the one made at 10.30 a.m. There are various other factors noticed by him which go to cast a serious doubt as to whether the policy was really obtained on 20th February, 1992 at 10.30 a.m. Further doubts are cast on the date on which the theft of the vehicle had taken place which has been found by the Investigator to be 19th February, 1992 and not on 20th February, 1992. Keeping in view the report of the Investigator, the State Commission returned the finding against the complainant.

3. IN the light of all these factors and reasons noticed by the State Commission in coming to the conclusion that there was no deficiency in service as the Insurance Company had made an elaborate inquiry before coming to the conclusion that insurance policy was obtained by the complainant fraudulently after the vehicle had already been stolen, cannot be said to be suffering from any legal infirmity. In these circumstances, the impugned order is affirmed and the revision petition is dismissed with costs assessed at Rs. 2,000/-.