

(1996) 05 NCDRC CK 0058

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

New India Assurance Company
Ltd

APPELLANT

Vs

SUKHDEV CHAND MEHTA

RESPONDENT

Date of Decision: May 28, 1996

Citation: 1997 1 CPJ 174 : 1997 2 CPR 267

Hon'ble Judges: A.L.Bahri , R.L.Gupta , Gurkanwal Kaur J.

Final Decision: Appeal partly allowed

Judgement

1. THIS appeal is by the Insurance Company filed against order dated January 2,1996 passed in Complaint Case No. 227 of 1994. The appellant was directed to pay a sum of Rs. 2.50.000/- inclusive of remaining amount of Rs. 10.000/- with interest and also interest on delayed payment of Rs. 3,95,500/- w.e.f. May 1,1992 to August 5,1994. The aforesaid amount also included costs. At this stage, it maybe observed that another Complaint No. 228 of 1994 was also filed by the complainant against the Insurance Company wherein a sum of Rs. 1 lac as price of the diesel was allowed. Against such directions, no appeal has been filed.

2. THE facts are very brief. THE complainant- Sukhdev Chand Mehta, owner of Oil Tanker No. PB-11/B 9555 took insurance policy, Annexure P-1 for the period March, 12,1991 to March 11, 1992 from New India Assurance Company-the appellant. THE tanker, which was full of oil was stolen on the night intervening October 28 and 29 of 1991. Immediately, report was lodged with the Police and claim was lodged with the Insurance Company. Subsequently, the Insurance Company paid a sum of Rs. 2,70,000 /- on September 5,1994 and a sum of Rs. 1,28,500/- on September 8,1994,

total being Rs. 3,98,500/-. Mr. Mehta filed the complaint under the provisions of the Consumer Protection Act before the District Forum, Patiala, alleging that he was entitled to interest on the amount paid @ 18% for . delayed payment. He also challenged the amount as awarded. THE complaint was contested by the Insurance Company. THE entitlement of interest from October 28,1991 @ 18% per annum was denied. Rajinder was filed by the complainant, reiterating his stand as taken up in the complaint. THE complainant filed his own affidavit. On the side of the Insurance Company, affidavit of Shri A.C. Jaggi, Sr. Divisional Manager was filed. Both the parties produced several documents.

Mr. Pardeep Bedi, learned Advocate for the Insurance Company the appellant has argued that the District Forum has arbitrarily fixed compensation at Rs. 2,50,000/- consolidated, without giving any reasons. There is force in this contention. In the matter of fixation of compensation for the loss, if any suffered, it is the complainant who is to plead and prove the same. It is only in the case, where it is not possible to assess compensation such as for mental agony etc. that a rough estimate is to be prepared by the agencies established under the Act. The fact cannot be lost sight of that in money matters when some amount is due and is not paid in time, the party can be compensated by award of 18% per annum interest. Proceedings under the Consumer Protection Act are quasi-judicial in nature and the agencies established under the Act are supposed to give reasons for the decisions taken. Such reasons given by the District Forums are subject to scrutiny by the State Commission in appeal as provided under the Act. Thus, arbitrarily fixing a sum of Rs. 2,50,000/- as payable to the complainant by the Insurance Company as such cannot be accepted.

The very fact that the Insurance Company-the appellant partly settled the claim by making payments in September, 1994 by two instalments, total being Rs. 3,98,500/- per se is sufficient to hold deficiency on the part of the Insurance Company in not settling the claim within a reasonable time when originally the claim was made on the Insurance Company. Normally, the Insurance Companies are expected to finalise and settle the claims within three to four months. Present is a case where it was after about three years that the Insurance Company paid the amount insured in two instalments as stated above. Delay in settling the claim amounts to deficiency in rendering service in such like cases.

3. THE grant of Rs. 10,000/- towards compensation in addition to the two amounts already paid by the Insurance Company as stated above, is not disputed. Learned Counsel for the appellant has argued that the grant of @ 18% interest on account of delayed payment of money would cover monetary loss, if any suffered, even though

not specifically proved as well as compensation for harassment etc. THERE is force in this contention. THE State Commission has in several cases observed that in the absence of any specific allegations or proof of suffering specific loss, the grant of @ 18% interest on the amount of the value of the articles or the amounts insured would reasonably be the compensation payable to the complainant. In this view of the matter, while allowing the claim of the complainant to the tune of Rs. 4,08,500/- (Rs. 2,70,000/- + Rs. 1,28,500 amount already paid and a sum of Rs. 10,000/- as awarded by the District Forum), the complainant should be allowed @ 18% per annum interest, which would cover loss if any suffered and for harassment etc. THE payment already made would be adjusted. A sum of Rs. 5,000/- towards costs of litigation before the District Forum is considered just and is awarded.

It was argued on behalf of the complainant that since the truck was purchased after securing loan from the Canara Bank and the Bank had taken the insurance policy for the benefit of the complainant, the complainant suffered specifically loss in the matter of penal interest charged by the Bank on the amount of the loan taken, which remained unpaid. This contention as such cannot be accepted. Orally, it was argued that the Bank rate was @ 16.5% per annum in such like cases and if the amount was not repaid within time, 3% more could be charged as penalty. When any loan is taken by a person, it is his responsibility to return it in time or to suffer penalty. The complainant could otherwise arrange to make payment of the loan and not to solely depend upon the settlement of the claim with the Insurance Company and only to then repay the loan and incur penalty. The Insurance Company cannot be held liable for the penalties earned by the complainant in the matter of non-payment of loan to the third parties.

4. FOR the reasons recorded above, this appeal is partly allowed. The order of the District FORum is modified as under: A direction is given to the Insurance Company-the appellant to pay a sum of Rs. 4,08,500/- with @ 18% per annum interest thereon from May 1,1992 till payment. The amount already paid by the Insurance Company to the complainant shall be adjusted. The complainant would be entitled to costs of Rs. 5,000/- of the proceedings pending before the District FORum. There will be no order as to costs in this appeal. Appeal partly allowed.