
(1999) 09 NCDRC CK 0016

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

RAM LAL INDER LAL

APPELLANT

Vs

Oriental Insurance Co. Ltd.

RESPONDENT

Date of Decision: Sept. 16, 1999

Citation: 1999 2 CLT 289 : 1999 3 CPR 488 : 2000 1 CPJ 159

Hon'ble Judges: A.L.Bahri , Jasbir Singh J.

Final Decision: Complaint dismissed

Judgement

1. M/s. Ram Lal Inder Lal, Delhi in this complaint claim Rs. 5,87,856.81 as per details given in the complaint from Oriental Insurance Company, the opposite party. The complainant firm had purchased Marine Insurance Policy No. 21-95-00005 (Annexure C-1) for a period of one year covering risk of goods in transit from anywhere in India to anywhere in India. The policy was in the amount of Rs. 8 crores on payment of premium of Rs. 28,000/-. As per terms and conditions of the policy, the complainant was required to declare its consignments through quarterly statements. Twice such quarterly statements were furnished for the period August 14, 1994 to December 19, 1994, Annexures C-2 and C-3. It was on November 22, 1994 that the complainant purchased 107.85 qtls. Groundnut Oil from Nirmal Rice and Oil Industries Limited, Gangapur City vide Invoice No. 85 which was for a sum of Rs. 3,61,233.88 (Annexure C-4). The payment was made to the seller in advance through demand draft. The said consignment was got booked through Nikil Road Carrier, New Delhi vide G.R. No. 53 dated 22.11.1994 and the consignment was booked from Gangapur City to Delhi (Annexure C-5). The Groundnut Oil was loaded in a tanker No. HR-12/8344 and started journey from Gangapur City to Delhi. On the way near Shahpura, the tanker was involved in a road accident on November 23, 1994. The entire Groundnut Oil leaked and was destroyed and lost. Insurance Company was informed on that very day by a registered letter Annexure C-6. The Insurance Company acknowledged the aforesaid letter and advised the complainant to approach nearest office of the Insurance Company for arrangement of Surveyor. Copy of the letter is Annexure C-7. Report of accident was also lodged at Police

Station, Shahpur on November, 24, 1994 Annexure C-8. The Insurance Company appointed a Surveyor who submitted his report Annexure C-9 recommending payment of insured amount of 107.85 qtls. of Oil which was lost in transit. Immediately thereafter the complainant submitted his claim bill for the amount of Rs. 3,65,237.88 to the Insurance Company on February 15, 1995 Annexure C-10 followed by a letter Annexure C-11. All the information asked for was supplied. The Insurance Company repudiated the claim vide letter dated September 16, 1996 Annexure C-16. After serving a legal notice (Annexure C-17), the present complaint was filed on September 8, 1998 in this Commission alleging that the repudiation of the claim was arbitrary and not based on facts and was against the terms and conditions of the policy. The alleged grounds of repudiation were denied. Such grounds were three as incorporated in Annexure C-16 as under : "1. You have submitted only one declaration for Sales and Purchases. The mode by you directly were supplied to buyers at different stations as you are consignee and consignors at the same time.

2. YOU have not declared consignments below 80 Kms.

By considering all these documentations, sum insured stands exhausted under the policy. The said declaration was not covered." 2. On notice of the complaint, the Insurance Company submitted its version denying the liability and asserting that the decision to repudiate the claim was taken bona fide on the material collected on the three grounds as mentioned above. As per terms and conditions of the policy, it was incumbent upon the complainant to declare all consignments of goods during the period of insurance to the Insurance Company. A rejoinder was filed by the complainant reiterating its stand as given in the complaint. Both the parties have led their evidence on affidavits and documents. On behalf of the complainant documents C-1 to C-20 were produced whereas on behalf of the Insurance Company, documents R-1 to R-11 were produced. The following questions require consideration in this case :

(1) Whether the repudiation of the claim by the Insurance Company is bona fide taken on material collected and hence there was no deficiency in rendering service ?
(2) If issue No. 1 is decided against the Insurance Company, to how much compensation the complainant is entitled to ? (3) Relief. Question No. 1

3. Annexure C-16 is the repudiation letter giving the three grounds of repudiation which have already been noticed above. Some of the facts which are not in dispute can be recaptulated with regard to the purchase of insurance policy and several declarations of consignments made by the complainant during the currency of the

policy and that the position was admitted before the Surveyor that when consignments were booked from place of purchase by the complainant, purchase value was noted on the Goods Receipts of the consignments sent through transport Company. It also stands admitted and otherwise proved that in the declarations submitted to the Insurance Company, all such transactions of consignments were not shown from such place of purchase to Delhi but were shown from such place to the place of destination of the consignees and that the selling price was not indicated in such declarations. It may also be observed that it is an admitted fact that such consignments which were within 80 kms. of Delhi were not intimated to the Insurance Company in the declarations submitted. Before the Grounds 1 and 3 as taken up in the repudiation letter, Annexure C-16, are taken into consideration, it is proposed to deal with Ground No. 2 first.

As already stated above, consignments upto 80 kms. were not mentioned in declarations submitted by the complainant to the Insurance Company. The contention of Counsel for the Insurance Company is that the value of such consignments were also to be taken into consideration and the amount of Rs. 8 crores stood exhausted if value of such consignments were taken into consideration. This contention cannot be accepted. When confronted, Counsel for the Insurance Company had no answer that if loss had occurred during such consignments, the Insurance Company obviously would not have been liable on the ground that such consignments were not declared and hence they were not covered under the terms and conditions of the policy. If that is so that such consignments are not covered under the terms and conditions of the policy, the complainant was not required to declare such consignments meaning thereby that such consignments were despatched without coverage of the risk. It is only such consignments which were declared under the terms and conditions of the policy that the risk could be covered.

3. TAKING up Ground Nos. 1 and 3 of the repudiation letter and the Surveyor's report, Annexure C-9 and the declaration submitted by the parties, it is quite clear that purchase price only was declared for the consignments from the place of purchase and place of destination was indicated. It was not disclosed that such consignments came to Delhi and under different Goods Receipts as the same goods were further sent to the destination of the purchasers of the complainant. For instance, reference be made to Exhibit R-8 and R-9. Vide Ex. R-8, the complainant purchased the goods Sunflower Oil for Rs. 3,21,715.30 from Saraswati Extractions Pvt. Ltd., Kotkapura and the such consignment was sent through Kisan Roadlines from Kotkapura to Delhi vide Goods Receipt Ex. R-9 and subsequently vide Invoice

Ex. R-10 for a sum of Rs. 3,55,610/- the said consignment was sent to Hyderabad vide Goods Receipt Ex. R-11 obtained from Vishkarma Transport Company, Delhi whereas this transaction was shown in the declaration as one transaction at item No. 40 of Ex. R-7, the declaration from Kotkapura to Hyderabad vide Truck No. DIG 8556. Value declared was Rs. 3,21,715.30. Factually as is the case of the Insurance Company, two transactions should have been declared, one from Kotkapura to Delhi of the value of Rs. 3,21,715.30 and the second from Delhi to Hyderabad of the value of Rs. 3,66,610/-. We are of the opinion that the Surveyor rightly reported that the two transactions of the value as described should have been shown in the declarations when goods sent from Kotkapura to Hyderabad were being declared. All the transactions given in the declarations are likewise meaning thereby that the complainant did not declare such transactions which he was required to do and it is on that basis that the Insurance Company has come to the conclusion that if such two transactions had been shown, the sum insured of Rs. 8 crores stood already exhausted by the time the ill-fated consignment was despatched. Thus, the consignment despatched was not covered under the Insurance Policy and we find no deficiency in rendering service when the Insurance Company had repudiated the claim in the circumstance as stated above. Question No. 1 is answered accordingly. Question No. 2 Since question No. 1 has been decided in favour of the Insurance Company, the complainant is not entitled to any compensation in this case from the Insurance Policy. Question No. 2 is answered accordingly. Question No. 3 For the reasons recorded above, we find no merit in this complaint and the same is dismissed. Complaint dismissed.