

**(1997) 03 NCDRC CK 0030**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

Oriental Insurance Co. Ltd.

APPELLANT

Vs

MANOCHA CLOTH HOUSE

RESPONDENT

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**Date of Decision:** March 14, 1997

**Citation:** 1997 1 CPC 597 : 1997 2 CPJ 133

**Hon'ble Judges:** M.R.Agnihotri , Sushil Paul J.

**Final Decision:** Appeals dismissed

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**Judgement**

1. THIS order shall dispose of two Appeals No. 496 of 1995 filed by Oriental Insurance Company and 525 of 1995 filed by the complainant M/s. Manocha Cloth House against the order dated 14th August, 1995 passed by the District Forum, Ambala, whereby complaint for claiming compensation from the Insurance Company on account of loss of stocks in a fire at the insured premises, has been allowed.

2. COMPLAINANT, who is a proprietor of Manocha Cloth House, Panchkula approached the District Forum, Ambala with the grievance that even though his stocks in the shop were insured with the Oriental Insurance Company for the period 15th December, 1991 to 14th December, 1992, yet his claim on account of damage to the stocks in fire which broke out on 25th September, 1992 had been arbitrarily repudiated. According to the complainant the matter had been reported to the police vide Daily Diary Report No. 18 dated 26th September, 1992 and the fire was extinguished by the fire brigade. In this fire, he suffered loss to the tune of Rs. 4,82,069.60. The Insurance Company while contesting the complaint pleaded that they had deputed their Surveyor for assessing the loss by taking photographs of the

burnt material in the shop and assessed the loss in his report to the tune of Rs. 2,20,476/-. However as the Insurance Company did not find the report of the Surveyor Mr. Chhabra as authentic, the necessity of appointing another Surveyor Mr. Chug had arisen. The second Surveyor submitted his report on 6th September, 1993 by stating that it was not possible for him to make any assessment without the cooperation of the insured. After examining the matter in detail and going through the evidence produced by the parties the learned District Forum allowed the complaint by agreeing with the survey report awarding a sum of Rs. 2,20,476/- by way of compensation with interest @ 18% w.e.f. 25th September 1992 - the date of fire, alongwith Rs. 5,000/- by way of compensation for harassment and mental torture etc.

In the Appeal No. 496 of 1995 filed by the Insurance Company, it has been vehemently contended by the Mr. Vinod Chaudhary, learned Counsel for the appellant that when the complainant had not cooperated with Mr. Chug the second Surveyor, the question of awarding compensation did not arise as it could not be ascertained as to what exactly was the extent of damage. On the other hand, learned Counsel for the complainant has pleaded that in fact the complainant was not informed about the appointment of Mr. Chug as the second Investigator. According to him neither the Insurance Company informed the complainant about the appointment of Mr. Chug as Investigator nor did Mr. Chug contact him for the purpose. Therefore, the survey report submitted by the first Surveyor Mr. Chhabra, which was otherwise also correct and authentic, has rightly been accepted by the learned District Forum. After hearing the learned Counsel for the parties and having gone through the record we are of the considered view that the complaint has rightly been allowed and the learned District Forum has correctly agreed with the survey report submitted by the first Surveyor Mr. Chhabra. Firstly, by a close scrutiny of the evidence we are not satisfied that there was any necessity for the appointment of second Surveyor. Secondly, there is no infirmity or discrepancy highlighted in the report of the first Surveyor. Since we have agreed with the finding arrived at by the learned District Forum that the Insurance Company failed to establish that the complainant had been informed about the appointment of Mr. Chug, therefore, the only evidence left with the learned District Forum was the report of the first Surveyor, which was a very detailed and elaborate report. Under the circumstances, we do not find any legal infirmity in the order passed by the learned District Forum and we dismiss the Appeal No. 496 of 1995 filed by the Insurance Company.

So far as Appeal No. 525 of 1995 filed by the complainant is concerned,, since the learned District Forum has awarded the compensation by accepting the report of the Surveyor and we have endorsed the same as correct, no material whatsoever has been produced by the complainant-appellant on the record to justify the grant of any enhanced compensation. Consequently, there is no merit in the complainant's Appeal No. 525 of 1995 either and the same is also dismissed.

Appeals dismissed.