

## M.L.DHAWAN Vs National Insurance Co. Ltd.

**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**Date of Decision:** April 15, 1993

**Citation:** 1993 2 CPJ 1083

**Hon'ble Judges:** R.N.Mittal , S.Brar , A.N.Saxena J.

**Final Decision:** Complaint allowed with costs

### Judgement

1. BRIEFLY the facts are that the complainant obtained "money in transit insurance" from the opposite party for the period from 6.4.1989 to

5.4.1990. The cover note covered the risk of money in transit from various offices/dealers in U.P. and Delhi to their office at Delhi/Sahibabad

and/or residence of the manager/ proprietor and the bank.

2. MR. Shree Ram Gupta was working as a sales representative of the complainant and was under his supervision and control. The Complainant

used to give to him a list of customers and the amount due from each of them and instructed him to visit the customers, collect the amount due from

them and also book orders. He used to deliver the amounts so collected to the complainant.

On 5th November, 1989 Mr. Gupta-was returning from Barut and Shamli to Delhi via Muzaffarpur with an amount of Rs. 2,57,000/-. In the way

he was attacked by the dacoits, who killed him and took away the money. The complainant lodged a claim with the respondent, however, after a

lapse of about two and half years they rejected the claim vide latter dated 13.5.1992 on the ground that Mr. Gupta was not authorized employee

of the complainant and thus the policy did not cover his risk. The complainant has filed the present Complaint for the recovery of Rs. 2,57,000/-

on account of loss and Rs. 1,27,215/- on account of the interest @ 18% per annum from 6.11.1989, the date of loss, to 10.8.1992, the date of

filing the complaint.

The complaint has been contested by the respondent who have controverted the allegations of the complainant and pleaded that Mr. Gupta was a

sales representative and as such his risk was not covered by the insurance policy.

3. THE question that arises for determination is as to whether Mr. Gupta was covered by the policy taken by the complainant. In order to

determine this question it is necessary to read the relevant terms of the policy. SECTION A - Loss of money by any cause while in direct transit

from the Bank to the Premises for payment of (i) wages salaries and other earnings (ii) petty cash from the time the money is received at the Bank

by the insured or authorized employees of the insured until delivered at the premises the cover in respect of item (i) above shall continuous whilst at

the premises and until paid out provided that after business hours money covered under item (i) not paid out be secured in locked safe or locked

strong room which has been approved by the company. SECTION B - Loss of Money (other than that covered under Section A) by any cause

while indirect transit between the Bank and the Premises in the personal custody of the Insured or the Insured's authorized employees. SECTION

C - Loss of Money (other than that covered under Section A+B) any cause while indirect transit Various Offices/Dealers in UP/Delhi to insured's

office at Delhi/Sahibabad and/or residence or Manager/Proprietor and finally to bank. ""Estimated amount of money in transit during the period of

Insurance. Rs. 3,00,00,000/-.

From a reading of he terms it is evident that Section A applies in cash money is lost while it is in transit from bank to the premises of the insured,

for payment of wages, salaries, etc. from the time it is received at the bank by the insured or authorized employees of the insured. Section B

applies is cash money is lost while in transit between the bank and the premises of the insured and is in personal custody of he insured or the

insured's authorized employees. Section C applied where Sections A and B do not apply and the money is in direct transit from dealers in

U.P./Delhi to the insured's office at Delhi/Sahibabad and/or residence of manager/proprietor and finally to bank. In this section it has not been

provided that the money should be in the custody of the insured or its employees. If the money was that of he insured and was being brought to its

office at Delhi/Sahibabad and it has been robbed in the transit the respondent is liable to reimburse the insured. The person from whose custody

the money has been robbed is not a relevant consideration while reimbursing the insured. Therefore, the respondent, in the present case, was not

justified in declining to reimburse the complainant in the facts and circumstances of the present case.

4. THE Surveyor in his report dated 6.8.90 has reported that the complainant lost the amount of Rs. 2,57,000/-. However, he has deducted the

amount of Rs. 5,052/- which is alleged to be standing to the credit of the deceased sales representative. We do not think that the respondent could

deduct the amount of Rs. 5,052/- which had not been advanced by the deceased to the complainant out of the amount robbed. THEREfore, the

complainant is entitled to recover amount of Rs. 2,57,000/- from the respondent.

The complainant has claimed interest @ 18% p.a. from the respondent. In our view the rate of interest claimed by the complainant is just and

proper in the circumstances of the case. We consequently grant the interest at the said rate. The claim should have been normally settled by the

respondent within a period of two months from the date of the incident. Consequently, we are of the opinion that the complainant is entitled to

interest from 6.1.89 till 10.8.92, the date of complaint. The amount of interest comes to Rs. 1,66,279.00 or pay Rs. 1,66,300.00.

For the aforesaid reasons we accept the complaint with costs and direct the respondent to pay an amount of Rs. 4,23,300/- with interest @ 18%

p.a. from 10.8.92 till the date of payment within a period of three months to the complainant, failing which an action shall be taken against them

under Section 27 of the Consumer Protection Act. Costs Rs. 2,000/-." Complaint allowed with costs.