

United India Insurance

Vs

Ajmet Singh Cotton & General Mills

Civil Appeal No. 535 of 1994

(S. Saghir Ahmad, R. P. Sethi JJ)

12.08.1999

JUDGMENT

R.P. Sethi, J. –

1. Whether the insured is estopped from making any further claim from the insurer after accepting the insurance claim amount in full and final settlement of all the claims by executing the discharge voucher willingly and voluntarily without any protest or objections ?
2. Whether inspite of the acceptance of the claim amount and execution of discharge voucher voluntarily, the insured is entitled to the grant of any interest ?
3. Whether the Consumer Disputes Redressal Commissions constituted under the Consumer Protection Act, 1986 are entitled to fasten liability against the insurance companies over and above the liabilities payable under the contract of insurance envisaged in the policy of insurance ? are the main questions of law required to be adjudicated in all these appeals.
4. In Civil Appeal No. 535 of 1994 the respondent No. 1 had procured two policies Nos. 201202-11-43-11-01234-90 from the appellant-insurance company. Similarly in Civil Appeal No. 723 of 1994 respondent No. 1 had procured two insurance covers operative from 20th October, 1989 to 19th June, 1990 to the extent of Rs. 10,00,000/- and from 3rd April 1990 to 29th June, 1990 to the extent of Rs. 10,00,000/- respectively. Respondent No. 1 had also procured insurance cover to the tune of Rs. 27 lakhs from respondents 2 to 4. The respondent suffered losses on account of fire regarding which the surveyors are appointed and upon submission of their reports the payments were made which were accepted by the insured with declaration of receipt of the "sum in full and final discharge of claims upon them." After the payments were made the respondents filed complaint petitions before the State Consumer Disputes Redressal Commission Punjab at Chandigarh claiming *inter alia* interest at the rate of 18 per cent per annum against the appellant. The State Commission dismissed the claims but the National Consumer Disputes Redressal Commission accepted the appeal of the respondent No. 1 and directed the appellant to pay the interest at the rate of 18 per cent.
5. The facts in Civil Appeal No. 534 of 1994 are almost identical for determining the controversy and deciding the question of law noted hereinabove.
6. We have heard learned counsel for the parties and perused the record. It is true that the award of interest is not specifically authorised under the Consumer Protection Act, 1986 (hereinafter called 'the Act') but in view of our judgment in *Sovintorg (India) Ltd. v. State Bank of India (Civil Appeal*

*No. 823 of 1992) decided on 11th August, 1999*, we are of the opinion that in appropriate cases the forum and the commissions under the Act are authorised to grant reasonable interest under the facts and circumstances of each case. The mere execution of the discharge voucher would not always deprive the consumer from preferring claim with respect to the deficiency in service or consequential benefits arising out of the amount paid in default of the service rendered. Despite execution of the discharge voucher, the consumer may be in a position to satisfy the Tribunal or the Commission under the Act that such discharge voucher or receipt had been obtained from him under the circumstances which can be termed a fraudulent or exercise of undue influence or by misrepresentation or the like. If in a given case the consumer satisfies the authority under the Act that the discharge voucher was obtained by fraud, mis-representation, under influence or the like, coercive bargaining compelled by circumstances, the authority before whom the complaint is made would be justified in granting appropriate relief. However, where such discharge voucher is proved to have been obtained under any of the suspicious circumstances noted hereinabove, the tribunal or the commission would be justified in granting the appropriate relief under the circumstances of each case. The mere execution of the discharge voucher and acceptance of the insurance claim would not estop the insured from making further claim from the insurer but only under the circumstances as noticed earlier. The Consumer Disputes Redressal Forums and Commissions constituted under the Act shall also have the power to fasten liability against the insurance companies notwithstanding the issuance of the discharge voucher. Such a claim cannot be termed to be fastening the liability against the insurance companies over and above the liabilities payable under the contract of insurance envisaged in the policy of insurance. The claim preferred regarding the deficiency of service shall be deemed to be based upon the insurance policy, being covered by the provisions of Section 14 of the Act.

7. In the instant cases the discharge vouchers were admittedly executed voluntarily and the complainants had not alleged their execution under fraud, undue influence, mis-representation or the like. In the absence of pleadings and evidence the State Commission was justified in dismissing their complaints. The National Commission however granted relief solely on the ground of delay in the settlement of claim under the policies. The mere delay of a couple of months would not have authorised the National Commission to grant relief particularly when the insurer had not complained of such a delay at the time of acceptance of the insurance amount under the policy. We are not satisfied with the reasoning of the National Commission and are of the view that the State Commission was justified in dismissing the complaints though on different reasonings. The observations of the State Commission in *Jivajeerao Cotton Mills Ltd. v. New India Assurance Co. Ltd., Original Petition No. 52 of 1991, decided on November 28, 1991* shall always be construed in the light of our findings in this judgment and the mere receipt of the amount without any protest would not always debar the claimant from filing the complaint.

8. Under the circumstances the appeals are allowed. The orders of the National Commission are set aside by confirming the orders passed by the State Commission. The complaint of the respondents shall stand dismissed without any order as to costs.