

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5705 OF 2021
[@ SPECIAL LEAVE PETITION (C) NO. 34639 OF 2015]

DHARAMENDER

Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD & ORS.

Respondent(s)

O R D E R

Leave granted.

The challenge in the present appeal is to an order passed by the National Consumer Disputes Redressal Commission [in short, "NCDRC"] on 01.07.2015, whereby the Revision Petition filed by the respondent- Insurance Company was allowed and the claim of compensation on account of theft of vehicle was set aside on the ground that the delay of 78 days in not informing the Insurance Company of the theft is fatal.

The appellant had purchased a Mahindra & Mahindra Major Jeep CL-500 bearing Registration No. HR-19C-0414, at the cost of Rs. 3,40,000/- on 14.03.2010. The said vehicle was financed by Mahindra & Mahindra Financial Services Ltd. The insurance cover was issued by the respondent, which was valid from 14.03.2010 till 13.03.2011. However, on the intervening night of 24-25.04.2010, the vehicle was

stolen outside the office of a liquor shop, in which the appellant was a partner. An attempt was made to trace the vehicle but an FIR was lodged on 01.05.2010 i.e. after 7 days of the incident. According to the complainant, he informed the Insurance Company about the theft of vehicle on phone, but the written complaint was made on 12.07.2010. It may be noted that the police had filed untraced report of the vehicle, which was accepted by the Judicial Magistrate, First Class, Charkhi Dadri, Bhiwani on 14.05.2011.

The complaint was allowed by the District Consumer Redressal Forum and an award was passed to pay the insured amount, i.e. Rs. 3,40,000/- to the complainant with 12% interest. The appeal filed by the Insurance Company against the said order was dismissed by the State Consumer Disputes Redressal Commission vide order dated 04.12.2014, however, the NCDRC set aside the order, relying upon the Judgment of this Court in Oriental Insurance Company Ltd. Vs. Parvesh Chander Chadha reported in (2018) 9 SCC 798 and some other orders of the NCDRC.

The learned counsel for the appellant has argued that the Judgment of two-Judge Bench of this Court in Parvesh Chander Chadha (Supra) was referred to a three-Judge Bench in view of another Judgment of this Court in Om Prakash Vs. Reliance General Insurance &

Anr., reported in (2017) 9 SCC 724. The three-Judge Bench of this Court in Gurshinder Singh Vs. Shriram General Insurance Company Ltd. & Anr., reported in (2020) 11 SCC 612, *inter alia*, held that "*when an insured has lodged the FIR immediately after the theft of a vehicle occurred and when the police after investigation have lodged a final report after the vehicle was not traced and when the surveyors/investigators appointed by the insurance company have found the claim of the theft to be genuine, then mere delay in intimating the insurance company about the occurrence of the theft cannot be a ground to deny the claim of the insured.*" It is the case where the FIR was lodged on the same day the theft had occurred.

The learned counsel appearing for the Insurance Company has argued that this Court has not approved the repudiation of claim only on the ground of intimation to the Insurance Company, but delay in lodging an FIR is an important step in examining the claim of the appellant, since as per the appellant himself, the report was lodged after 7 days of the incident. Therefore, the claim filed by the complainant was rightly rejected by the NCDRC.

We have heard the learned counsel for the parties at length and find that the order passed by the NCDRC cannot be sustained. The claim of the appellant was

repudiated by the Insurance Company on the ground that there is delay of 78 days in intimating the vehicle being stolen on the intervening night of 24-25.04.2010. It is the said ground which was raised and accepted by the NCDRC. The NCDRC has returned the following finding to set aside the orders passed by the District Forum, as affirmed by the State Commission:-

“7. The delay of 78 days was not explained. The complainant has failed to make a case that there was delay in intimation due to unavoidable circumstances as per the IRDA circular.”

However, in respect of the argument that the FIR was delayed, the said arguments need not be examined in this case as the case of Insurance Company throughout was based upon delay in intimation to the Insurance Company.

In view of the said fact, we find that the order of the NCDRC cannot be sustained in law. The present appeal is allowed and the order passed by the District Forum, as affirmed by the State Commission, is restored. The amount of compensation as awarded by the District Forum and affirmed by the State Commission be paid to the appellant within two months.

Pending interlocutory application(s), if any,
is/are disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[V. RAMASUBRAMANIAN]

New Delhi;
SEPTEMBER 13, 2021.

ITEM NO.21 Court 10 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 34639/2015

(Arising out of impugned final judgment and order dated 01-07-2015 in RP No. 1005/2015 passed by the National Consumers Disputes Redressal Commission, New Delhi)

DHARAMENDER Petitioner(s)

VERSUS

UNITED INDIA INSURANCE CO. LTD & ORS. Respondent(s)

Date : 13-09-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Arunabh Chowdhury, Adv.
Mr. Vaibhav Tomar, Adv.
Mr. Rahul Pratap, AOR

For Respondent(s) Mr. Rajesh Kumar Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)