

PRAKASH CHANDRAKAR V. BRANCH MANAGER, UNITED INDIA INSURANCE CO. LTD.

1. PRAKASH CHANDRAKAR

S/O.SH.LATE PRADEEP CHANDRAKAR, R/O VISHRAM
PUR,THANA VISHRAM PUR, TEHSIL SURAJ PUR
C.G – 493222

.....Petitioner(s)

Versus

1. BRANCH MANAGER, UNITED INDIA INSURANCE CO. LTD.

HOTEL KUMKUM, BRAMH ROAD, AMBIKA PUR, THANA
AND TEHSIL, AMBIKA PUR GILA,
SURGUJA
C.G

.....Respondent(s)

Case No: REVISION PETITION NO. 3187 OF 2017

Date of Judgement: 10 Jan 2023

Judges:

HON'BLE MR. BINOY KUMAR,PRESIDING MEMBER

HON'BLE MR. JUSTICE SUDIP AHLUWALIA,MEMBER

**For the Petitioner : Ms. J. Kiran, Advocate with
Mr. J.P.N Shahi, Advocate**

**For the Respondent : Mr. Amit Kumar Singh, Advocate
Mr. Tovikato Achumi, Advocate
(In RP/3187/2017)**

Mr. Tishampati Sen, Advocate

Ms. Ridhi Sancheti, Advocate

Mr. Anurag Anand, Advocate (For R-1)

Mr. Bharat Sood, Advocate (For R-2)

Facts:

Revision Petition filed by Mr. Prakash Chandrakar against order of Chhattisgarh State Commission dismissing his appeal against District Forum order. District Forum directed two insurance companies (respondents) to pay complainant Rs. 3,30,289 each towards damages to his business premises due to fire. District Forum relied on surveyor's report assessing total liability of insurance companies at Rs. 6,60,578. Complainant aggrieved by no award of interest and litigation costs and also surveyor's assessment of loss at 35% without sufficient reasons.

Court's Elaborate Opinion:

No grounds to interfere with concurrent findings of forums below. Complainant unable to demonstrate deficiencies in surveyor's assessment. Surveyor assessed loss at 35% of liability covered under insurance policy since 35% of premises destroyed in fire. In absence of detailed list of articles destroyed and satisfactory stock register, no major error in surveyor's conclusion. Regarding interest, surveyor submitted final report in November 2014 but complaint filed in December 2014, when insurance companies were willing to pay claim amount. Hence, District Forum rightly held that complainant not entitled to interest or litigation costs.

Arguments:

Petitioner's Arguments:

Should have been awarded interest and litigation costs. Surveyor's assessment of loss at 35% without cogent and sufficient reasons.

Respondent's Arguments:

Findings of forums below do not warrant interference. Complainant has not established any deficiencies in surveyor's assessment. Insurers were always willing to pay assessed claim amount, so interest and costs not justified.

Download

Court

Copy:

<https://dreamlaw.in/wp-content/uploads/2024/02/65.pdf>

Full Text of Judgment:

1. This Revision Petition has been preferred by Mr. Prakash Chandrakar, the Petitioner herein against the Order dated 04/05/2017 passed by the Chhattisgarh State Consumer Disputes Redressal Commission, Pandri Raipur in Appeal No.FA/2016/717.
2. The State Commission had dismissed the Appeal preferred by the Petitioner/Complainant against the Order of the District Redressal Forum Ambikapur, Sarguja (Chhatisgarh) on 20/10/2016.
3. The District forum had directed the two Insurance Companies which are the Respondents in each of these two Revisions to pay an equal amount of ₹3,30,289/- to the Complainant on account of the damages suffered by him in his business premises due to incidence of fire.
4. The District Forum had come to this finding by accepting the report of the Surveyor Commissioner who had assessed the total liability of the Insurance Companies to the tune of ₹6,60,578/- only, which was therefore, equally divided by the District Forum against the two Insurance Companies.
5. The Petitioner is first of all aggrieved that neither any interest, nor litigation costs were awarded to him by both the Fora. He is also aggrieved by the assessment accepted by the District Forum on the basis of the Surveyor's Report. In this regard, he has mentioned in ground 'M' of his Revision that the assessment of loss at 35% by the Surveryor is without cogent and sufficient reasons.
6. We have heard the submissions of the Ld. Counsel appearing for the Parties. We find no grounds to interfere with the concurrent decisions of both the Fora below. This is so because the Petitioner/Complainant has been unable to spell out as to what were the deficiencies in the assessment arrived at by the Surveryor. Such assessment of the Surveryor is first of

all reproduced as follows:-

“Allowed 35% of claimed amount as insured area which is said to involved in fire is only 35%. Insured has not submitted quantity how he has arrived to this figure and debris not produced. But for the purposes of maximum liability the working has been made.”

7. It is undeniable that from his side the Petitioner could not give any detailed list of the articles allegedly destroyed in the fire, and the Stock Register in that regard was also not satisfactorily forthcoming. As 35% of the premises had been found to have been destroyed in fire, so the Surveyor assessed the loss at 35% of the maximum liability covered under the Insurance Policy. In the circumstances, it cannot be said that there was any major error or irregularity on the part of the Surveyor in coming to such conclusion.

8. Regarding the non-awarding of interest to the Petitioner, it may be mentioned that the Surveyor had submitted his final Report on 10/11/2014. But before the Insurance Companies which were willing to pay up his admissible claim, he preferred his Complaint just a month later on 15/12/2014 which was ultimately disposed off by forum on 20/12/2016, and specifically for this reason the District Forum held that in the circumstances he was not entitled to any interest or litigation costs, when the Insurance Companies had all along being willing to pay up their Assessed claim amounts.

9. For the aforesaid reasons, the instant Revision Petitions are found to be bereft of any substantive merits.

The same are therefore dismissed. Parties to bear their own costs.