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SHYAM LAL JAYASWAL

v.

BRANCH MANAGER, ORIENTAL INSURANCE COMPANY
LIMITED AND ANOTHER

B

(Civil Appeal Nos. 75-76 of 2020)

JANUARY 08, 2020

**[DR DHANANJAYA Y CHANDRACHUD AND
HRISHIKESH ROY, JJ.]**

- C *Consumer Protection Act, 1983 – Appellant's vehicle insured with the respondent met with accident – Appellant filed claim before the District Consumer Disputes Redressal Forum – Claim allowed in the amount of Rs.5,38,000/- with interest @ 6% p.a. – Appeals by both the parties – State Consumer Disputes Redressal Commission (SCDRC) partly allowed the appeal of the respondents reducing the amount to Rs.4,99,000/- with interest @ 6% p.a. – National Consumer Disputes Redressal Commission (NCDRC) further reduced the claim to Rs.3,81,031/- – On appeal, held: It is not disputed that the order of the SCDRC was not challenged by the respondents before NCDRC, but only the appellant contested the reduction of*
- D *the claim by SCDRC – Impugned order of NCDRC set aside and that of SCDRC is restored – Submission on behalf of the respondents is that the order of the SCDRC was duly complied with by the respondent and, as a result, the NCDRC directed recovery of the excess – In pursuance of the present order, no recovery be made from the appellant.*
- E *the claim by SCDRC – Impugned order of NCDRC set aside and that of SCDRC is restored – Submission on behalf of the respondents is that the order of the SCDRC was duly complied with by the respondent and, as a result, the NCDRC directed recovery of the excess – In pursuance of the present order, no recovery be made from the appellant.*
- F CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 75-76 of 2020.

- G From the Judgment and Order dated 06.11.2018 of the National Consumer Disputes Redressal Commission at New Delhi in Revision Petition Nos. 2422-23 of 2015.

Anand Shankar Jha, Arpit Gupta, Advs. for the Appellant.

J.P. Sheokhand, Prabhat Kaushik, Advs. for the Respondents.

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The following Order of the Court was passed:

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O R D E R

1. Leave granted.

2. These appeals arise from an order of the National Consumer Disputes Redressal Commission¹ dated 6 November 2018. The appellant is the owner of a Tata Safari vehicle bearing registration number CG-15C-7777. The vehicle was insured with the respondent for the period 29 March 2012 to 28 March 2013. The vehicle met with an accident on 2 June 2012. An intimation was furnished to the respondents on 4 June 2012. On 5 June 2012, the claim was submitted to the respondent. The appellant received an estimate for repair of the vehicle in the amount of Rs 5,66,769. A surveyor was appointed by the respondents who submitted a report on 5 November 2012. The surveyor estimated the Insured Declared Value at Rs 5,00,000, though according to the appellant, the value for the purpose of the contract of insurance was determined at Rs 6,00,000. The appellant filed a claim before the District Consumer Disputes Redressal Forum, Ambikapur, Sarguja, Chhattisgarh. The respondents contested the claim. The claim was allowed on 12 November 2014 in the amount of Rs 5,38,000, together with interest at the rate of 6% per annum, from 21 March 2013.

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3. Appeals were filed both by the appellant and the respondents before the State Consumer Disputes Redressal Commission². The SCDRC, by its order dated 22 July 2015, partly allowed the appeal filed by the respondents by reducing the amount awarded to Rs 4,99,000, together with interest at the rate of 6% per annum. Aggrieved by the order of the SCDRC, the appellant moved the NCDRC in revision. The NCDRC, by its order dated 6 November 2018 reduced the claim awarded from Rs 4,99,000 to Rs 3,81,031.

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4. Learned counsel appearing on behalf of the appellant submitted that the NCDRC was in error in reducing the claim awarded by the SCDRC despite the fact that the order of the SCDRC was accepted by the respondents who had not initiated any further proceedings to challenge it.

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¹ NCDRC

² SCDRC

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- A 5. It is not in dispute that the order of the SCDRC was not challenged before the NCDRC by the respondents. It was only the appellant who had contested the reduction of the claim by the SCDRC. In this view of the matter we find merit in the grievance of the appellant. Learned counsel appearing on behalf of the appellant submits that the ends of justice would be met if the order passed by the SCDRC is restored.
- B 6. We accordingly allow the appeals, set aside the impugned order of the NCDRC dated 6 November 2018 and restore the judgment and order of the SCDRC. There shall be no order as to costs.
- C 7. Learned counsel appearing on behalf of the respondents submits that the order of the SCDRC was duly complied with by the respondent and, as a result, the NCDRC directed recovery of the excess. We clarify that in pursuance of the above order which has been passed in the present appeal, no recovery shall be made from the appellant.

Divya Pandey

Appeals allowed.