

Om Prakash vs Reliance General Insurance on 4 October, 2017

Equivalent citations: AIR 2017 SUPREME COURT 4836, 2017 (9) SCC 724, AIR 2018 SC (CIVIL) 220, (2018) 2 MAH LJ 516, (2018) 2 MPLJ 35, (2017) 4 JLJR 302, (2018) 2 CALLT 97, (2018) 2 CIVLJ 876, (2017) 12 SCALE 198, (2018) 127 ALL LR 259, (2018) 1 ICC 237, (2017) 4 CURCC 23, (2018) 125 CUT LT 10, (2018) 1 RECCIVR 42, (2018) 1 ANDHLD 71, (2018) 183 ALLINDCAS 62 (SC), (2017) 2 CLR 1040 (SC), (2017) 4 PAT LJR 314, (2017) 4 ACJ 2747, (2017) 6 BOM CR 450

Author: S.Abdul Nazeer

Bench: S.Abdul Nazeer

1

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 15611 OF 2017
(Arising out of SLP (C) No.742 of 2015)

OM PRAKASH

... APPELLANT

VERSUS

RELIANCE GENERAL INSURANCE
AND ANR.

...RESPONDENTS

JUDGMENT

S.ABDUL NAZER, J.

1. Delay condoned. Leave granted.
2. The appellant got his truck, bearing Registration No.HR-21-F-0462, insured with Respondent

No.1 herein, i.e. Reliance General Insurance Company Ltd., w.e.f. 10.03.2010 to 15:01:26 IST
Reason:

09.03.2011. The said vehicle was stolen from Chopanki, Bhiwari, Rajasthan on 23.03.2010 at about 9:00 p.m. Consequently, an FIR was lodged, on 24.03.2010, in Police Station Tapkura, District Alwar, Rajasthan, under Section 379 IPC. Thereafter, the appellant visited the office of the first respondent but the office was found to be closed. Then the appellant went to the place of theft and met the driver and then he went to the concerned police official. On 29.03.2010, the appellant along with the truck driver, went with the police officials for their assistance to search the vehicle. The appellant reached his village on 30.03.2010. On 31.10.2010, the appellant lodged the insurance claim with the respondent-company at Hissar and provided the necessary documents which were demanded by the respondent-company.

3. Pursuant to the said claim, an Investigator was appointed by the Respondent-company, who, after verification, confirmed the factum of theft. Consequently, the Corporate Claims Manager approved an amount of Rs.7,85,000/- for the said claim of the appellant. Thereafter, the appellant made several requests and demands to the respondent-company, inter alia, seeking speedy processing and disposal of his insurance claim. Finally, the appellant served a legal notice, dated 09.08.2011, to the respondent-company. However, the respondent-company repudiated the insurance claim of the appellant citing breach of Condition No. 1, i.e. immediate information about the loss/theft of the vehicle.

4. Being aggrieved, the appellant filed complaint before the, District Consumer Disputes Redressal Forum, Hissar (for short 'District Forum'), under Section 12 of the Consumer Protection Act, 1986, inter alia, seeking a direction to the respondent-company for payment of claim amount with an interest @ 18% per annum, along with compensation of Rs.1,00,000/- to the appellant. Written statement was filed by the respondents herein opposing the claim of the appellant. The District Forum, by order dated 13.06.2013, dismissed the complaint of the appellant thereby holding that there is no deficiency of service on the part of respondents.

5. The appellant herein filed an appeal challenging the said order of District Forum, before the State Consumer Dispute Redressal Commission, Haryana (for short 'State Commission') at Panchkula. The State Commission by an order dated 23.10.2013 dismissed the said appeal. This order was challenged by the appellant by way of Revision Petition before the National Consumer Disputes Redressal Commission (for short 'National Commission'). This Revision Petition has been dismissed by the National Commission by an order dated 12.02.2014. The appellant has questioned the legality and correctness of the said order in this appeal.

6. Learned counsel for the appellant contended that the appellant, immediately after getting the information about the theft of the vehicle, went to the place of theft and met the police officials along with the truck driver. Consequently, he got busy with the police while visiting many cities in Rajasthan for the search of the said vehicle and returned to his village on 30.03.2010 and lodged the insurance claim on 31.03.2010 before the Respondent-company. The appellant has assigned cogent

reasons for the delay of 8 days in lodging the complaint. The National Commission has dismissed the petition filed by the appellant without taking into consideration the reasons assigned for the delay. It is argued that the Investigator appointed by the Respondent has verified the factum of theft and that the Corporate Claims Manager approved the report of Investigator, thereby recommending the payment of Rs.7,85,000/- towards claim.

7. On the other hand, the learned counsel appearing for the respondents submits that as per the Condition No. 1 of the Insurance Policy, the information of theft ought to have been given to the respondent-company immediately upon the occurrence of theft. The claim was filed after a delay 8 days from the occurrence of theft. In the said circumstance, the National Commission was justified in rejecting the revision petition.

8. We have carefully considered the submissions of the learned counsel made at the Bar and perused the materials placed on record.

9. The appellant, owner of the truck in question, is the resident of Muzadnagar village, Tehsil Hansi, District Hissar, State of Haryana. The theft of the vehicle had taken place on 23.03.2010 at Chopanki, Bhiwari, Rajasthan. The FIR was lodged in P.S. Tapukra, District Alwar on 24.03.2010 and the claim petition was filed on 31.03.2010. Dinesh, the truck-driver, had filed an affidavit before the District Forum stating that the owner of the truck had reached the place of occurrence of theft and met him and also the concerned police official. The Police had asked him and the owner to stay with them in order to help them for tracing out the truck. The police had also asked them to collect necessary documents in relation to the said truck. They were, consequently, busy with the Rajasthan Police in searching the vehicle. They visited many places in Rajasthan. The police had compelled the appellant to accompany them while searching the truck. It is only on 29.03.2010, the appellant went back and reached his village on 30.03.2010. The appellant had also filed a similar affidavit before the State Commission explaining the reasons for the delay in informing theft of the vehicle.

10. Condition No.1 of the Insurance Policy states that notice shall be given in writing to the company immediately upon the occurrence of any accidental loss or damage in the event of any claim and thereafter the insured has to give all such information and assistance as the company may require.

11. It is common knowledge that a person who lost his vehicle may not straightaway go to the Insurance Company to claim compensation. At first, he will make efforts to trace the vehicle. It is true that the owner has to intimate the insurer immediately after the theft of the vehicle. However, this condition should not bar settlement of genuine claims particularly when the delay in intimation or submission of documents is due to unavoidable circumstances. The decision of the insurer to reject the claim has to be based on valid grounds. Rejection of the claims on purely technical grounds in a mechanical manner will result in loss of confidence of policy-holders in the insurance industry. If the reason for delay in making a claim is satisfactorily explained, such a claim cannot be rejected on the ground of delay. It is also necessary to state here that it would not be fair and reasonable to reject genuine claims which had already been verified and found to be correct by the Investigator. The condition regarding the delay shall not be a shelter to repudiate the insurance claims which have been otherwise proved to be genuine. It needs no emphasis that the Consumer

Protection Act aims at providing better protection of the interest of consumers. It is a beneficial legislation that deserves liberal construction. This laudable object should not be forgotten while considering the claims made under the Act.

12. In the instant case, the appellant has given cogent reasons for the delay of 8 days in informing the respondent about the incident. The Investigator had verified the theft to be genuine and the payment of Rs.7,85,000/- towards the claim was approved by the Corporate Claims Manager, which, in our opinion, is just and proper. The National Commission, therefore, is not justified in rejecting the claim of the appellant without considering the explanation for the delay. We are also of the view that the claimant is entitled for a sum of Rs.50,000/- towards compensation.

13. Hence, the appeal is allowed and the orders of the National Commission, State Commission and the District Forum are set aside and the claim petition filed by the appellant is allowed. The respondents 1 and 2 are directed to pay a sum of Rs. 8,35,000/- to the appellant with interest @ 8% per annum from the date of filing of the the claim petition till the date of payment. The payment, as above, shall be made within a period of 8 weeks from today.

14. There will be no order as to costs.

.....J. (R.K. AGRAWAL)J. (S. ABDUL NAZEER) New Delhi;

October 4, 2017.