

Sanjay Jain V/s Reliance General Insurance Company Ltd &ors  
Revision Petition No 1296 of 2015  
Decided on 10.11.2020

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Legal issues –

- Whether Surveyors report can be rejected against estimate given by authorized dealer.
- Whether the case falls under total loss cover.
- Whether condonation of delay in filing appeal was on legal footing.

Facts of the case;

1. One Mr Sanjay Jain imported a car from Japan and got it insured with Reliance general Insurance Co. Ltd for a period of one year running from 21.9.2010 to 20.9.2011 for an amount of Rs 18,90,500. The vehicle met with an accident on 27.3.2011 and was damaged extensively. Information about accident was immediately given to the insurance company. Insurance company after receiving information advised the owner of car to take the vehicle to their approved authorized dealer and following the instructions Sanjay Jain took the car to M/s Harit Motors (p)Ltd G.T. Road Panipat. Authorised Service station of the insurance company charges Rs 2000/- and gave estimate for repair Rs 1751923/- Since the repair cost was more than 75% of the IEV (Embedded value of insured), Sanjay Jain demanded the case to be treated as total loss case as per the special condition of insurance policy.
2. Insurance company appointed M/S M.S Up pal & Associates as surveyor to assess the loss who assessed the loss to the tune of Rs 9,52,865.69 /- which was less than 75% of the. No settlement done due to this dispute
3. Complaint file before the District Forum CC 43 of 2013, complaint decided on 7.3.2014 directing Insurance Company to pay RS 18, 90,500/- with 9% interest along with 50,000/- compensation and Rs 5500/- cost of litigation considering total loss.
4. Company files first appeal before State Commission bearing no. 567 of 2014. Appeal was decided on 20.2.2015, reduced the claim amount to Rs 10,02,870/-
5. Revision Petition no 1296 of 2015 filed before the National Consumer Dispute Redressal Commission.

Issues in Dispute

- Delay in filing the Revision Petition
- Dispute of claim amount
- Admissibility of estimate by Authorized service center against Surveyor estimate

National Commission Observed;

- As far condonation of delay is concerned, there was a delay of 84 days in filing the petition and condoning the same is within the right and discretion of the commission. A proper application was filed for condonation of delay and the same was considered by the commission. There are no procedural lapses. Complainant referred the case of Postman General & ors V/S Living Media India Ltd & ors and presses the point that administrative delay in moving the file is no excuse for delay. National commission held commission has considered the issue in light of many judgments by apex court and hence condonation of delay was as per law.
- On the issue of claim amount, Complainant argued that surveyor report is not the conclusive and final word. Surveyor report should not be accepted because insurance company had agreed to consider total loss in their e mail communication dated 11.7 2011 wherein it was said-
 

‘That we had started exploring the salvage of your vehicle but did not get fruitful reply from any agency due to high value of your vehicle. We will finalize your claim after we get wreck value from the agency Due to market constraints a good salvage value for the prescribed model sometimes we have to wait’
- On the issue of admissibility of authorized service center estimate ,it is argued by complainant that surveyor report is not accompanied with affidavit

National commission held on this point

!) That above communication does not confirm any thing, it is just a procedural delay or matter in the pipe line yet not reached to finality or any promise to consider the case as total loss. Salvage is submitted even when vehicle is repaired and claim settled. Hence commission did not consider this conversation for considering total loss case.

!!)Further Surveyor is appointed by insurance company under the provisions of Insurance Act 1938 and the report of surveyor cannot be brushed away without any cogent reason

!!!) Estimate given by a private party like authorized service center cannot stand good against an independent assessor appointed under law. Unless there is some evidence against such report of malafide, incomplete or any other reason

!V) Another reason given by complainant that surveyor report was not accompanied with affidavit is also not acceptable .Even the assessment given by authorized services center on which complainant relies is also not accompanied with affidavit .

National commission confirmed the order of State Commission not considering the case of total loss and hence directed to pay Rs 10, 02,870/-as claim amount

along with 5% interest. Compensation of Rs 50,000/- and cost of litigation Rs 5500/- remains unchanged.

Law Laid Down –

1. Appointment of surveyor is provided in the Insurance Act 1938 and hence Surveyor report cannot be challenged unless cogent evidence against such report is available on record

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