

Pages (9)

FIRE INSURANCE

BHOPAL

BHOPAL OMBUDSMAN CENTRE

Case No.: GI/OIC/0109/101

Shri Neelesh Agarwal V/s Oriental Insurance Co. Ltd., .Sagar

Order No.: BPL/GI/0809/48 Date of Order:- 31.03.2009

Brief Background

Mr. Neelesh Agarwal had obtained Standard Fire Insurance Policy No. 153700/11/2009/76 for the period from 23.6.2008 to 22.06.2009 from Oriental Insurance Co. Ltd., Sagar for his Bhoosa Godown No. 2.

As per the Complainant there was a fire in his Godown on 12.8.2008 at 1.00 pm for which the Respondent and Police was informed. The respondent deputed Mr. Pankaj Agarwal, Surveyor & Loss Assessor and all the documents provided to Surveyor but the claim. and finally the claim is rejected on the grounds that the fire took place due to Spontaneous combustion.

As per the self contained note submitted by Respondent along with the Survey Report the Respondent described that the damages are “due to abnormal rise in Temperature but not due to contract of physical Fire as such the claim is not be Tenable”.

Observations:

There was no dispute that the Complainant's Bhoosa was covered for Rs. 1000000/- under the above-mentioned policy. Similarly, there was also no doubt about the reported loss to the Insured Bhoosa on 12.8.2008 due to Fire. The matter of dispute is for the cause of Fire only. As per the Respondent the fire took place due to abnormal rise in Temperature but not due to contact of physical Fire while as per the Complainant the

losses are due to fire was set by unknown. In this case, the detailed inspection of damaged property was done by Mr. Pankaj Agarwal, an I.R.D.A. licensed Surveyor and as per his detailed report wherein it is concluded that the said losses are due to Spontaneous Combustion of Straw. The reasons for his conclusion for the cause of fire as Spontaneous combustion along with the meaning and definition of Spontaneous combustion are also technically elaborated. During hearing the respondent explained that there was no physical Fire &/or flames seen by any one which are the implied condition of Policy in Fire Claim under the coverages of above mentioned Policy. The complainant explained that the flames are not seen because of nature of Bhoosa which can not be flamed if burn by fire and again reiterated that the fire was set by any unknown and not by spontaneous combustion. On asking from complainant whether the matter was investigated by police and what are the findings of police about the cause of Fire, the complainant neither submitted any document nor explained positively. On the other hand the respondent explained by producing the Policy & conditions of Policy that the above policy covers only specific losses due to fire and not due to its own fermentation, natural heating or spontaneous combustion as find the main cause of accident in the above case hence, the claim is not tenable.

In view of the circumstances stated above the decision of repudiation taken by respondent on the grounds mentioned above is **Just & Fair** because the damaged property was inspected by technically competent IRDA licensed Surveyor who has considered all important factors i.e. surrounding location of property, construction of godown, pattern of storages of damaged goods, nature of stock as well as nature & extent of damages to property, conducive circumstances for the happening of

Spontaneous combustion, the cause of fire observed **Spontaneous combustion due to abnormal rise in Temperature and not because of any physical contact of Fire** which found not covered &/or excluded under the Policy No.153700/11/2009/76. Similarly, the complainant also failed to documentary substantiate his complaint, therefore, no reason found to interfere with the decision taken by the Respondent. **The complaint is dismissed without any relief.**

BHUBANESWAR

BHUBANESWAR OMBUDSMAN CENTER

Complaint No.11-003-0222

Sri Jagannath Das

Vrs

National Insurance Co. Ltd., Bhubaneswar D.O-II

Award dated 1st October, 2008

The Complainant had insured his building, machinery and stock through a Fire Policy with National Insurance Co. Ltd. There was heavy rain and storm in which the building, machinery and stocks were affected. Complainant had claimed compensation of Rs. 116550.00. The insurance company repudiated the claim on the ground that the risk was not affected either by flood or cyclone as per the surveyor.

Hon'ble Ombudsman heard the case on 12.05.2008 and 16.07.2008 where both parties were present. After hearing both parties and perusing the documents Hon'ble Ombudsman observed that the damage of stocks was due to rain water and was to the tune of Rs. 13827.00. After deduction of policy excess of Rs. 10000.00 the complainant is entitled to get Rs. 3827.00 only. Hence, he set aside repudiation decision of the insurance company and directed to pay Rs. 3827.00 to the complainant within one month from the date of receipt of consent letter.

BHUBANESWAR OMBUDSMAN CENTER

Complaint No.14-002-0345

Sri Baburam Senapati

Vrs

New India Assurance Co. Ltd., Paradeep Branch

Award dated 5th November, 2008

Complainant is the sole proprietor of M/S Sarala Talkies and had insured the same under Fire Policy 'C' and under Burglary & House Breaking Policy. The cinema hall was damaged in super cyclone followed by theft of furniture and fixtures by miscreants. Claim was lodged with New India Assurance Co. Ltd but it was made no claim as desired documents were not submitted to insurance company within stipulated time and the policies were not covering the very nature of loss.

Hon'ble Ombudsman heard the case on 18.08.2008 where both parties were present. After hearing both parties and perusing the documents, held that Fire Policy "C" does not cover cyclone damages and Burglary & House Breaking Policy does not cover damages resulting after storm or cyclone and therefore up held the decision of repudiation of insurance company and dismissed the complaint accordingly.

BHUBANESWAR OMBUDSMAN CENTER

Complaint No.14-002-0296

Sri Janardan Sahu

Vrs

United India Insurance Co. Ltd., Satyanagar Branch

Award dated 10th February, 2009

Complainant is the sole proprietor of M/S J D Traders and had insured his business premises under Shopkeeper's Insurance Policy of United India Insurance Company. The premises was gutted by fire through electric short circuit during policy period. Insurance company after survey and investigation assessed the claim for Rs 62175/- on principle of severability as against complainant's claim of Rs 12,93,395/-.

Hon'ble Ombudsman heard the case on 17.07.2008, 19.08.2008 and on 29.10.2008 in presence of both the parties and concerned surveyor and investigator. After hearing both parties and intermediaries and perusing the documents, held that in the event of burning of documents the surveyor should have verified the documents of available stock from the banker who had inspected the business premises three days before fire and directed insurance company to settle the claim taking the stock as of Rs 12,00,000/- and making usual deductions from it as per policy terms and conditions. The payment is to be made within 30 days of receipt of consent letter.

BHUBANESWAR OMBUDSMAN CENTER

Complaint No.11-011-0441
Sri Shyama Ballav Mohapatra

Vrs

Bajaj Allianz General Insurance Co. Ltd., Bhubaneswar Branch

Award dated 31st March, 2009

Complainant had insured his Shopping Mall under Fire and Special Perils policy taken from Bajaj Allianz General Insurance Company Ltd. A toughened - glass door of the entrance to the Mall got damaged and a claim was reported. Insurance Company did not settle the claim on the grounds of damage not being due to operation of an insured peril.

Hon'ble Ombudsman heard the case on 04.12.2008 where both the parties were present. After hearing both sides and perusing the documents produced, Hon'ble Ombudsman held that the damage was accidental and comes under the broader sense of peril. Hence allowed the complaint and directed Insurance Company to pay Rs 15,000/- to the complainant within a month of receipt of consent letter.

GUWAHATI

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 11-003-0176/08-09

Mr. Narayan Chandra Majumdar,

-vs-

National Insurance Co. Ltd.
Maligaon Divisional Office, Maligaon..

Award dated : 10-03-2009

Mr. Narayan Chandra Majumdar had obtained the “Householders Insurance Policy” from the above insurer insuring his residential building and other household belongings covering the period from 24-10-2007 to 23-10-2008. The insured property/Building sustained damages in a flood incident during the period covered under the policy and the Complainant preferred a claim for Rs. 57,560/- before the insurer. The insurer has repudiated the claim on the ground that the Insured/Complainant had no insurable interest over the property and hence the claim is not payable. Being aggrieved, the Complainant approached this forum for redressal.

The Insurer has contended that the building (ground Floor) is in the name of Mr.Praloy Majumdar and the insurance policy has been taken in the name of Mr. Narayan Ch. Majumdar. Hence the insured has no insurable interest on the subject matter of Insurance i.e. on building. So, the claim is not payable.

During the course of hearing, the Representative of the Insurer said that the insured building, for the damage of which, the claim was lodged, does not belong to the complainant and the same was owned by Mr. Praloy Majumdar, who happens to be the son of the complainant. Thus, according to him, the Insured/Complainant had no insurable interest over the said building and hence nothing is payable under the policy for sustaining damage. The Insurer has also produced a copy of the proposal form submitted by the complainant at the time of procuring the above policy which goes to show that while giving description of the insured building and its contents in column No.I (A) and (B) thereon, the complainant declared the building and its contents to be belonged to him and members of his family permanently residing with him/her and the attached sheet of list of articles with value also, the Complainant signed the proposal for Kajal Majumdar and Praloy Majumdar. The complainant appears to have duly disclosed the facts and on being satisfied, the insurer had accepted his proposal and thereafter the policy was issued in his name.

From the statement of the complainant Mr. Narayan Chandra Majumdar, it appears that the insured building stands registered in the name of his son Praloy Majumdar, and he, being father of Praloy Majumdar is residing in the said building along with other members of the family. His statement also discloses that he procured the policy for wife and child and this was stated by him in the list of articles attached with the proposal. The proposal form also contained all such statements. Now the question is whether under such circumstances, he had any insurable interest over the building/properties or not. Insurable interest in a thing develops when a man possesses the same. The Hon'ble National Consumer Disputes Redressal Commission, New Delhi in a decision reported in 2007 CTJ 1185 (CP) (NCDRC) held, following the decision adopted in Collingridge v. Royal Exchange Assurance Corp. (1877) 3 QBD 173, that "Insurable interest in a thing is not restricted to its ownership alone. A person who may be in possession without title or even a finder of goods may insure the property". Taking guidance from the above law settled by the Hon'ble National Consumer Disputes Redressal Commission, we can safely held that being father and possessor and residing jointly with other members of his family in the insured residential building, the complainant has the inurable interest over the building and accordingly he procured the policy. The repudiation of the claim lodged by the complainant by the insurer on the ground of having no insurable interest cannot be said to be justified. The same is accordingly set aside. Insurer was directed to settle the claim.

KOCHI

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No.IO/KCH/GI/11-005-334/2008-09

Smt.P.V.Gijitha

Vs

The Oriental Insurance Co.Ltd.

AWARD DATED 01.01.2009

The complainant is running a stone crusher unit at Mavoor, Kozhikode, in the name and style "Dwaraka Metals". She had insured the building and site for Rs.5 lakhs for the period 13.10.2006 to 12.10.2007. On 01.07.2007, during night, the soling tank of the crusher unit was broken and fallen due to seeping of heavy rain water into the ground where it was constructed. The claim was repudiated on the ground that the loss was occurred not due to insured peril.

Though the happening of the event is admitted, the insurer's contention is that the loss occurred will not come under the coverage of the policy. The loss occurred not according to insured peril, but only due to rain water and defective design and workmanship or use of defective materials. It was submitted by the insurer that they have deputed an authorized surveyor to inspect the spot and assess the loss. According to him, on account of heavy rain, water had seeped down to the ground and water didn't drain out due to poor workmanship and design. Sufficient number of weeping holes was not there to drain out water and thereby, reduce the pressure of water. It was also reported by the surveyor that soling tank was constructed by depositing sand on the ground and constructing retaining wall on the roadside, which had collapsed. The tank was constructed by elevating the ground by putting sand. The elevated portion alone was damaged. It can be seen from the records produced that the loss was due to heavy rain and construction could not bear the flowing rain water pressure and it collapsed. Damage has caused on account of heavy rain. Hence it must come under storm/cyclone or subsidence and landslide, which is not covered under the policy. As the loss has occurred not due to an insured peril, the repudiation is to be upheld and complaint is, therefore, **DISMISSED**.

LUCKNOW

Lucknow Ombudsman Centre

Case No.G-55/11/02/08-09

Shri.Rajat Agarwal

Vs

The New India Assurance Co. Ltd..

Award Dated : 9.3.2009

Complaint filed against The New India Assurance Co. Ltd. by Shri.Rajat Agarwal in respect of settlement of claim of Rs.1,06,788/- only against a claim of Rs.13,44,325/-.

Facts : Shri.Rajat Agarwal, took out a fire policy for "building in course of construction" in respect of his building situated at Mussorie for a total SI of Rs.60,55,000/-. The complainant filed a claim in respect of damage to some retaining walls(Pushta) of the insured building due to heavy rains on 13.8.07. The respondent assessed the loss for Rs.1,06,788/- as against the estimates of Rs.12,62,100/-. Aggrieved with the decision of the insurer the claimant approached this forum giving rise to the complaint.

Findings : On careful examination of all the documents the forum has doubts as to the very admissibility of the claim as per the policy coverage let alone the dispute over the assessment of the loss. It is mentioned in the survey report that the damage to the property is due to heavy rain on 13.8.07 at 3 A.M. First of all, the policy covers inter-alia damage due to storm, cyclone, typhoon, tempest, hurricane, tornado, flood and inundation. Hence damage due to heavy rain is not a peril covered. Moreover there is no evidence by way of any reports from meteorological department to suggest that the damage was due to any of the perils covered under the policy. During the course of personal hearing when the surveyor was questioned as to how the damage was assessed when it is obviously not arising out of an insured peril, the surveyor had no reply obviously implying that the damage was not payable.

Decision: It is clear that the alleged damage to pushta admittedly due to heavy rains is not covered under the standard fire and special perils policy. Hence the claim itself is not admissible under the policy. Further it postulates that the assessment made by the surveyor is also not admissible at all. Therefore the complainant is not entitled to any amounts by way of a claim under the policy.