

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4504 OF 2010

SURESH KUMAR

APPELLANT(S)

VERSUS

UNITED INDIA INSURANCE CO.LTD.

RESPONDENT(S)

O R D E R

The challenge in the present appeal is to an order passed by the National Consumer Disputes Redressal Commission (for short 'NCDRC') on 04.05.2009 whereby the order of the State Commission awarding a sum of Rs.93,504/- to the appellant was not interfered with.

The truck No.HR-15-GA-0024 was purchased by the appellant which was insured with the respondent. On 23.02.2000, the said truck was stolen when it was parked at Hisar Road, Rohtak. An FIR was lodged on 27.02.2000. The vehicle was recovered on 12.03.2000.

The grievance of the appellant is that when the truck was recovered, some valuable parts of the vehicle were found missing and some other parts were damaged. The appellant referred to an estimate prepared by Modern Motors Store, Rohtak.

Since, the claim of the appellant was not accepted, a Complaint was filed before the District Consumer Disputes Redressal Forum, Rohtak claiming a sum of Rs.3,00,000/- as damages to the truck on account of deficiency in service by the respondent - United India Insurance Co. Ltd. The appellant relied upon the bills issued by the Garg Automobiles on 12.06.2000, 11.12.2000 and by

Ikara Tyre Sales dated 23.06.2000.

In the reply, the stand of the Insurance Company was that Sh. Rajesh Nawal was appointed as independent surveyor who has given his preliminary survey report on 28.04.2000. The final Survey Report was furnished by Sh. Sunil Vashist, the independent Surveyor. Such Surveyor has pointed out that the appellant purchased reconditioning parts which are of low value and submitted the bills of new parts. The appellant was informed about the wrong billing. The appellant consented to settle his claim as per Survey Report. The investigation was conducted through Sh. B.N. Vashist, Investigator who submitted his report on 16.05.2000.

In evidence, the appellant produced the photocopies of the bills of new parts Exhibit P2, P3 and P4 as mentioned above for the total sum of Rs.2,80,954/-. The District Forum granted a lump sum compensation of Rs.2,00,000/- after deducting a sum of Rs.73,344/-, already stood paid, making a balance amount of Rs.1,26,656/- out of Rs.2,00,000/-.

Aggrieved against the said order, the Insurance Company filed an appeal before the State Consumer Commission, Haryana, wherein the following findings were arrived at:-

"...We find force in the arguments advanced by the learned counsel for the appellant, In this case Mr. B.N. Vashist, after verification has assessed the loss caused to the vehicle to the tune of Rs.93,504/-. The Surveyor is the best person for assessing the loss to a damaged vehicle. Admittedly, the District Forum has not taken into consideration the actual value of the vehicle in question as well as assessment report of Surveyor..."

We have heard learned counsel for the parties and find no merit in the present appeal. The appellant has produced the bills showing purchase of parts from a shop in Delhi but the mechanic who has prepared the estimate or the mechanic who has used such parts have not been examined.

Mere purchase of parts will not sufficient to lead an inference that such parts were actually used in the truck which was stolen. The bills are in respect of tax paid parts. Such bills produced by the appellant will not lead to any inference that they were actually used in the truck in question.

In view of above, the order of the State Commission was a plausible order which was not interfered with in Revision by the NCDRC.

Thus, we do not find any ground to entertain the present appeal. Accordingly, the appeal stands dismissed.

The Insurance Company will pay the difference between Rs.93504/- and 73344/- along with interest @ 9% per annum within two months from today along with costs of Rs.1500/- imposed by the District Forum.

Pending application(s), if any, also stand disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[A. S. BOPANNA]

New Delhi
17TH AUGUST, 2021

ITEM NO.105 Court 12 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4504/2010

SURESH KUMAR

Appellant(s)

VERSUS

UNITED INDIA INSURANCE CO.LTD.

Respondent(s)

Date : 17-08-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE A.S. BOPANNA

For Appellant(s) Mr. Harinder Mohan Singh, AOR
 Ms. Shabana, Adv.
 Mr. Harinder Mohan Singh, AOR

For Respondent(s) Mr. S. Gowthaman, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.
Pending application(s), if any, also stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)