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W.P.No.37050 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P.No.37050 of 2024

and

WMP.No.40029 of 2024

The Oriental Insurance Company Ltd.,
Divisional Office
JLC Buildings
No.1, Katpadi Road
Vellore 632 004
rep.by Regional Manager

... Petitioner

Vs.

1.M/s. Christian Medical College
Rep.by its Council Secretary Dr.George Mathew
Ida Scudder Road
Vellore 632 004.

2.The President
National Consumer Disputes Redressal
Commission, Upbhokta Nyay Bhavan
GPO Complex, F Block
Aviation Colony, New Delhi 110 023.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in FA.No.697 of 2019 dated 14.02.2023 on the file of the second respondent /National Consumer Disputes Redressal Commission, New Delhi and quash the same and thereby dismiss the consumer complaint in C.C.No.40 of 2006 on the file of the State Consumer Disputes Redressal Commission, Chennai.

For Petitioner : Mr.Nageswaran Narichania

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is directed against the order of the National Consumer Disputes Redressal Commission, New Delhi, dated 14.02.2023, in First Appeal No.697 of 2018.

2.Brief facts that are necessary for the disposal of this writ petition are as follows :

2.1.The 1st respondent purchased an Electronic Equipment Insurance Policy for their MRI Scan system installed at Vellore. After some time, the machine was not working and therefore, the 1st respondent availed the



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services of a competent Service Engineer and found that the machine could not be repaired. It was assessed by a competent Engineer, who tried to repair the machine, that it is not possible for the equipment to be repaired. Therefore, the 1st respondent made a claim before the petitioner Insurance Company, and the petitioner appointed a Surveyor and the Surveyor also submitted a report on 07.03.2000. A final survey report was also issued on 13.03.2000.

2.2.It is the case of the petitioner that the Surveyor appointed by the petitioner observed in his report that the 1st respondent had replaced a new Board on 03.02.2000 before inspection by the Surveyor and that the defective part was not available for inspection. Even though the loss was assessed at Rs.20,87,164/-, it was observed by the Surveyor appointed by the petitioner that the 1st respondent did not produce the report of the Service Engineer to whom the defective unit was sent for study.



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2.3.The 1st respondent filed a claim petition in C.C.No.40 of 2006 before the State Consumer Disputes Redressal Commission, Chennai, for settlement of insurance claim amount and compensation attributing deficiency in service. The State Commission found that the repudiation of the claim was unjustifiable and awarded a sum of Rs.20,87,164/- for the loss.

3.Aggrieved by the same, the petitioner preferred a First Appeal in F.A.No.697 of 2019 before the National Consumer Disputes Redressal Commission, New Delhi. The National Commission, by order dated 14.02.2023, confirmed the order of the State Commission. Aggrieved by the same, the above writ petition is filed.

4.The only submission of the learned counsel for the petitioner is that the Surveyor appointed by the petitioner to assess the damages was unable to give his failure report and that the claim was submitted belatedly before the State Commission.



5.The National Commission has given valid reasons for not accepting the reasons given by the petitioner for rejecting the claim. This Court finds no irregularity or illegality in the order of the National Commission, confirming the order of the State Commission. Learned counsel appearing for the petitioner submitted that there is a delay in presenting the complaint and therefore, the impugned order of the National Commission cannot be sustained. The learned counsel, however, is unable to demonstrate before this Court how the complaint is not filed within time. The reasons given by the petitioner before the Commission for repudiating the claim of the 1st respondent are as follows :

“M/s.S.Raghunathan Associates submitted their report stating that they were neither given an opportunity to ascertain the extent of damage nor provided analytical report of Holland Philips to whom the unit was said to have been sent for study. M/s. Philips Medical System India Private Limited have expressed their inability to give the detailed failure report vide their letter reference dated 08.03.2005.

We also note from the claim papers that Sky II processor found to be defective/failed on 24.11.1999 but it was informed to us vide your letter dated 03.02.2000 after a delay of more than 2 months.”



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Learned counsel appearing for the petitioner reiterated the same reasons which are found in the order impugned. Before the State Commission or before the National Commission, the petitioner has not submitted or produced any materials to substantiate their stand. When the repudiation of the petitioner was rejected for reasons, it is the duty of the petitioner to produce enough documents to prove their stand. Learned counsel for the petitioner has not substantiated his contention that there is non-cooperation by the 1st respondent for a valid assessment of the equipment. Except reiterating the reasons given by the petitioner while rejecting the claim, no supporting document is produced by the petitioner at any point of time, either before the State Commission or National Commission or before this Court. In such circumstances, this Court is unable to countenance the submissions of the learned counsel for the petitioner.

6. Therefore, this writ petition is dismissed as devoid of merits. No



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costs. Consequently, connected miscellaneous petition is closed.

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(S.S.S.R., J.) (P.D.B., J.)
13.12.2024

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Internet : Yes

Index : Yes

Neutral Citation : Yes

To

The President

National Consumer Disputes Redressal

Commission, Upbhokta Nyay Bhavan

GPO Complex, F Block

Aviation Colony, New Delhi 110 023.



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S.S. SUNDAR, J.
and
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