

Case Comment: HDFC ERGO General Insurance Co v Bhagchand Saini

23 December 2014

The National Consumer Disputes Redressal Commission has ruled that any delay in the notification of theft to the Police or the insurer in motor vehicle policies is fatal to the claim in its judgment of 4 December 2014.

Facts:

The insured informed the insurer of theft of his vehicle after a delay of 3 months. The information to police was after a delay of 2 days. The insurer repudiated the claim on the ground that the enormous delay in notification was in violation of policy conditions.

The insured filed a complaint before the District Forum which allowed his claim on a non-standard basis by applying the principle laid down by the Supreme Court in Amalendu Sahoo v OIC AIR 2010 SC 2090, where the Supreme Court had directed payment of 75% of the claim in case of an accident of a vehicle which was registered for private use but was being used for commercial purposes. The State Commission of Rajasthan upheld the order of the District Forum and the Insurer preferred a Revision before the National Commission.

National Commission's Decision:

1. Any delay in informing the police of the theft of a vehicle was ruled to be fatal to the claim and information must be given immediately, *"..the word immediately has to be construed, within a reasonable time having due regard to the nature and circumstances of the case."*
2. The National Commission relied upon the Supreme Court judgment in the matter of OIC v Parvesh Chander Chadha (Civil Appeal No 6739 of 2010) to state:

"On account of delayed intimation, the appellant was deprived of its legitimate right to get an inquiry conducted into the alleged theft of the vehicle and make an endeavour to recover the same."

3. The National Commission noted that a minor delay was also held to be justification for denial of the claim by a previous judgment of the National Commission itself:

"In the above case, a delay of 2 days in lodging the FIR and delay of 9 days in reporting the matter to the Insurance Company was found fatal."

4. The National Commission criticised the lower fora's reliance on Amalendu Sahoo and held:

"It is very clear that the facts of that case were entirely different because the violation relates to the nature of use of the vehicle only."

We acted on behalf of the insurer in the matter and were successful in overturning the judgment of the State Commission.

For further information on this topic please contact Tuli & Co

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