

IN THE DELHI STATE CONSUMER DISPUTES
REDRESSAL COMMISSION

Date of Institution: 28.03.2016

Date of hearing: 08.05.2024

Date of Decision: 25.06.2024

COMPLAINT CASE NO.- 295/2016

IN THE MATTER OF:

M/S DIALMAZ,
A PARTNERSHIP FIRM,
HAVING ITS OFFICE AT:
SHOP NO.12, GROUND FLOOR,
SQUARE ONE MALL,
SAKET, NEW DELHI.
THROUGH ITS PARTNER,
MR. SUSHIL JAIN.

(Through: Kohli & Sobti, Advocates)
...Complainant

VERSUS

THE ORIENTAL INSURANCE CO. LTD.,
HAVING ITS REGISTERED OFFICE AT:
ORIENTAL HOUSE,
A-25/27, ASAF ALI ROAD,
NEW DELHI-110002.
ALSO AT:
DIVISION OFFICE NO.22,
28/12, EAST PUNJABI BAGH,
NEW DELHI-110026.

(Through: Ms. Mithilesh Sinha, Advocate)
... Opposite Party

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL
(PRESIDENT)****HON'BLE MS. PINKI, MEMBER (JUDICIAL)**

Present: Mr. S.S. Sobti, counsel for the Complainant.
Mr. Mithilesh Sinha, counsel for the OP.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,**PRESIDENT****JUDGMENT**

1. The present complaint has been filed by the Complainant before this Commission alleging deficiency of service on the part of Opposite Party and has prayed the following reliefs:

- a) *“Direct the Respondent company to process the claim of the Complainant and to disburse the claim amount of US\$ 28832.81 (or alternatively a sum of Rs.15,51,205/-) alongwith interest computable @18% p.a. with effect from 02.05.2013, till realization;*
- b) *award a sum of Rs. 5,00,000/-, in favour of the Complainant, and against the Respondent Company, as compensation/damages, on account of the monitory loss suffered by the Complainants due to false and malafide representations and omissions made by the Respondent company;*
- c) *award the cost of the present proceedings, in favour of the Complainant and against the Respondent;*
- d) *such other/further order(s) as this Hon'ble Forum may deem fit and proper in the fact and circumstances of the case.”*

2. Brief facts necessary for the adjudication of the present complaint are that the Complainant obtained an Insurance Policy bearing Policy No.271900/48/2013/5969 against the .750 fine studded gold jewellery, the sum assured vide the said Insurance Policy was Rs. 3,57,27,980/- and a premium of Rs. 88,317/- was paid to the Opposite Party. The Insurance Cover was provided with respect to the gold jewellery be personally hand carried by any Authorized Person of the Complainant from its shop at Saket to the concerned Custom's Office, Jhandewalan, Delhi for appraisal, then after appraisal from the said Custom Office, Jhandewalanto the shop of the Complainant, situated at Saket, then from the said shop to Vasant Vihar and further on 08.03.2013 from Vasant Vihar to Indra Gandhi International Airport, New Delhi and then to Dubai, United Arab Emirates and from Dubai to Abu Dhabi for exhibition-cum-sale-cum display from 14.03.2013 to 18.03.2013, then from Abu Dhabi to Sharjah for exhibition-cum-sale-cum display from 26.03.2013 to 30.03.2013, then from Sharjah to Kuwait from 16.04.2013 to 22.04.2013 and then from Kuwait to New Delhi and back to shop Vasant Vihar Premises of the Complainant. The Risk Cover assured that the aforesaid Insurance Policy cover included fire, allied perils, earthquake, burglary & house breaking, theft, robbery, transit cover, etc. The insured items were on display at the 34th Mid East Watch and Jewellery Show between 26th to 30th March, 2013 at Expo Centre, Sharjah. However, on 29.03.2013 two pieces of Diamond Bangles bearing Item No. 5428 having a gross weight of 80.750 grams and Diamond weight of 43.60 Carats were stolen which was of monetary value of US\$28832.81 were stolen while the same were on display. The Complainant immediately gave an intimation to the Opposite party and on 02.05.2013, the claim was duly lodged with

the Opposite Party, by the Complainant. More so, a Police Complaint with respect to the theft of the aforesaid bangles was lodged by the Complainant with Sharjah Police and a case was duly registered at the Sharjah Police Centre. Despite having complied with all the documentary and allied requirements, the Opposite Party repudiated the claim vide its communication dated 18.12.2013, on the ground that the Complainant failed to arrange the CCTV footage of the incident. The Complainant sent various letters and emails by the Complainant, but the Opposite Party failed to process the claim of the Complainant. The Complainant also sent a legal notice dated 21.07.2015 to the Opposite Party to process the claim but was of no avail.

3. The Opposite Party has contested the present case and has raised preliminary objection as to the maintainability of the complaint case. The counsel of the Opposite Party contended that the present complaint is barred by limitation as the claim was repudiated by the Opposite Party vide letter dated 18.12.2013 and the present complaint has been filed after the statutory time limit of 2 years under the Consumer Protection Act, 1986. He further submitted that the Complainant has failed to provide the CCTV recording of the venue, which is in violation of terms and conditions of the said policy. Pressing the aforesaid contentions, the counsel appearing on behalf of the Opposite Party prayed that present complaint be dismissed.
4. The Complainant has filed the Rejoinder rebutting the written statement filed by the Opposite party. Thereafter, Complainant and Opposite party have filed their evidences by way of Affidavit in order to prove their averments on record.

5. We have perused the material available on record and heard the counsel for both the parties.
6. The main issue before us is ***whether the present complaint is barred by limitation period under the Consumer Protection Act, 1986.***
7. It is imperative to refer to Section 24A of the Consumer Protection Act, 1986 wherein it is provided as under:-

“24A. Limitation period.-

*(1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed **within two years from the date on which the cause of action has arisen.***

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint as this such period:

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay.”

8. Analysis of Section 24A of the Consumer Protection Act, 2019 leads us to the conclusion that this Commission is empowered to admit a complaint if it is filed within a period of 2 years from the date on which cause of action has arisen.
9. On perusal of record, we find that the Opposite Party repudiated the claim of the Complainant vide letter dated 18.12.2013 (***Annexure-G annexed with the complaint***). The cause of action starts from the date of repudiation of the claim lodged by the Complainant which is 18.12.2013 and the present complaint has been filed on 28.03.2016.
10. It is stipulated in the Consumer Protection Act that the complaint petition must be filed within a period of two years from the date of

cause of action and in the instant case the Complainant has filed the present petition beyond the stipulated time limit of two years. Besides, the Complainant failed to file any application for delay with the present complaint before this Commission. Under such circumstances, *the present complaint is barred by limitation and stands dismissed with no order as to cost.*

11. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
12. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties.
13. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(PINKI)
MEMBER (JUDICIAL)

Pronounced On:
25.06.2024