

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

OWP No.829/2012
CMA No.D-1162/2012

Date of Decision: 13.08.2012

National Insurance Company Ltd.

Vs

J&K State Consumer Disputes Redressal Commission & ors.

Coram:

Mr. Justice J.P.Singh.

Appearing Counsel:

For the Petitioner(s) : Mr. Baldev Singh, Advocate.

For the Respondent(s) :

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| i) | Whether approved for reporting in Press/Media | : | Yes/No. |
| ii) | Whether to be reported in Digest/Journal | : | Yes/No. |

National Insurance Company Limited has filed this Petition questioning the Jammu and Kashmir State Consumer Disputes Redressal Commission, Jammu's order dated 09.02.2012 on respondent Nos. 2 and 3's Appeal against the order of the Divisional Consumer Forum, Jammu dated 06.05.2009 seeking enhancement of the amount allowed to them by the Divisional Forum.

Considered the submissions of petitioner's learned counsel on Motion Hearing.

Learned counsel says that the State Commission had erred in allowing the respondents' Appeal on a fresh plea seeking enhancement of the amount allowed to them by the Divisional Forum and even otherwise as the claimants-respondents had filed another Claim Petition so their Appeal against the Award was not maintainable.

The submissions made by the learned counsel are meritless, for, neither any new plea is indicated to have been raised in the respondents' Appeal nor the filing of fresh Claim would affect respondents' Appeal, that had to be, and was decided by the State Commission, on the existing cause of action and the pleadings of the parties.

The State Commission has enhanced the amount awarded by the Divisional Forum to the respondents finding that deduction of Rs.62,462/- in the Survey Report and 50% valuation of the stock was without any justification.

The grounds on which the State Commission has enhanced the amount of compensation awardable to the respondents arise out of the respondents' Claim whereby they had sought recovery of Rs.4.68 lac against Insurance limit of Rs.8.00 lac.

The amount awarded by the Commission is within the Claim lodged by the respondents, no interference with the Commission's order may be warranted.

There is no force in the Writ Petition, which is accordingly dismissed.

(J.P. SINGH)
JUDGE

JAMMU
13.08.2012
Vinod.