

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

CONSUMER CASE NO. 1920 OF 2017

1. SUNSTRIKE TELECOM PRIVATE LIMITED

WZ-207, Street No. 12, Shiv Nagar, Janak Puri,
New Delhi - 110 058

.....Complainant(s)

Versus

1. ORIENTAL INSURANCE CO. LTD.

A Govt. of India Undertaking, Oriental House, A-25/27,
Asaf Ali Road,
New Delhi - 110 002.

.....Opp.Party(s)

BEFORE:

HON'BLE MR. JUSTICE V.K. JAIN, PRESIDING MEMBER

For the Complainant : Mr. Rajesh Arya, Advocate
Mr. Yudhvir, Advocate
Mr. B. Arya, Advocate

For the Opp.Party :

Dated : 02 Aug 2017

ORDER

JUSTICE V.K. JAIN (ORAL)

The complainant sent a cheque dated 3.7.2014 to the OP for a sum of Rs.224720/- in order to insurance cover against the burglary as well as fire in respect of its several godowns. The letter whereby the aforesaid cheque dated 31.7.2014 was sent to the OP is not filed with the complaint.

2. Vide letter dated 7.8.2014, the complainant requested the insurer to issue policy to insure the goods for all risks including theft and fire for Rs.20 crore. The insurer issued a receipt dated 11.8.20 which to the extent it is relevant reads as under:-

<p><i>“Received with thanks from Sh./Smt./M/s.</i></p>	
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					: M/S SUNSTRIKE TELECOM PVT. LTD.				
The Sum of					: Indian Rupees Two Lakhs Twenty-Four Thousand Seven Hundred Twenty-Three Only				
Towards the following					: Premium collections				
SI No.	Dept. Code	Policy No.	Policy Status	End/Ren/Dec/Claim No.	Dev. Off. Code	Source Code	Amount Collected	C/D	GL Coc
1	11	2015/281	New Policy		NA0000001458	BA0000124054	1,98,372.00	C	508
2	48	2015/2040	New Policy		NA0000001458	BA0000124054	26,348.00	C	508
3	48	2015/2040	New Policy		NA0000001458	BA0000124054	3.00	C	508
						Total	2,24,723.00		

SL Code	Pay Mode	Bank Name	Bank Branch	Instrument No.	Instr. Dt./CC Exp. Dt.
AA0000000001	CHQ	ICICI Bank Limited	ND	880156	31/07/2014

AA0000000001	CHQ	ICICI Bank Limited	ND	880156	31/07/2014
AA0000000001	CSH"				

The insurer thereafter issued two separate insurance policies to the complainant one bearing No.215100/11/2015/281 dated 8.8.2014 and the order bearing No.215100/48/2015/2040 dated 11.8.2014. Both the policies were issued against two separate cover notes one being 210000261823 dated 8.8.2014, and the number of other cover note being 210000730984 dated 8.8.2014. Policy No. 215100/11/2015/281 covered the goods against the fire and special perils whereas Policy No. 215100/48/2015/2040 covered the goods against burglary. Both the policies were floater policies as per the respective schedule.

3. Vide letter dated 27.11.2014, the complainant requested the insurer to add certain warehouses and change the addresses of some warehouses. The said letter to the extent it is relevant, reads as under:-

"Dear Sir,

We had taken a Burglary Insurance Policy for our Warehouse from your company against Policy No.215100/48/2015/2040 in favour of M/s Sunstrike Telecom Pvt. Ltd. for the period of 5.8.2014 to 4.8.2015. Please update following addition of warehouse and change in address of warehouse in your records in your existing list of warehouse.

Addition of Warehouse

<i>S. No.</i>	<i>Description</i>	<i>Address of Warehouse</i>

1)	--	--
2)	--	--
3)	--	--
4)	--	--
5)	<i>Additional of Warehouse</i>	<i>Sunstrike Telecom Pvt. Ltd., Plot No.692, Udyog Vihar, Phase-5, Gurgaon, Haryana</i>
6)	--	--
7)	--	--
8)	--	--
9)	--	--
10)	--	--”

4. A fire allegedly broke out in one of the warehouses of the complainant which was situated at Plot No.692, Udyog Vihar, Phase-V, Gurgaon. A claim was lodged by the complainant for reimbursement of the loss suffered in that fire. A surveyor was appointed by the insurer to assess the loss but the claim was not paid and the insurer has taken a stand that the aforesaid warehouse was not covered under fire and special perils policy.

5. Thus the only question involved in this complaint is whether the goods kept in the warehouse at Plot No. 692, Udyog Vihar, Phase-V, Gurgaon were covered only under the burglary policy or the same were covered under both burglary policy as well as fire and special perils policy.

6. The learned counsel for the complainant states that the complainant wanted a composite policy to cover the goods against burglary as well as fire and special perils and that is why one cheque towards payment of premium for insurance against those risks was issued. However, there is no document on record which would show that the complainant had applied for one composite insurance policy in order to cover the goods against fire and special perils as well as against burglary or even that such a composite policy was available. As noted earlier, two separate cover notes were issued by the insurer though on the same date. On the basis of those two separate cover notes, the insurer issued two separate policies to the complainant – one on 8.8.2014 and the other on 11.8.2014. There is no evidence of the complainant having applied for one composite insurance policy against issuance of two separate policies, one covering the risks against fire and special perils and the other covering the risks against burglary. If the complainant wanted only a composite policy and not two separate policies, noting prevented it from rejecting the two separate policies issued by the insurer and insist upon the issuance of a composite insurance policy. In fact the issuance of two separate policies itself negates the contention advanced by the learned counsel.

7. A perusal of the letter dated 27.11.2014 sent by the complainant to the insurer clearly shows that the complainant had sought inclusion of the warehouse at Plot No. 692, Udyog Vihar, Phase-V, Gurgaon only against the burglary insurance policy, the number of which was expressly mentioned in the said letter. Had the intention of the complainant been to include the aforesaid warehouse in both the policies, the letter would have stated so and in that case the numbers of both the policies and not the number only of burglary insurance policy would have been mentioned in the said letter. The specific reference to the burglary insurance policy along with number of the said policy leaves no reasonable doubt in this regard and therefore, I have no hesitation in holding that the goods kept in the aforesaid godown were not covered against risks by fire and special perils. The insurer, therefore, was justified in taking the stand which it has taken while responding to the legal notice of the complainant on 9.2.2017.

8. The learned counsel for the complainant during the course of hearing referred to the decision of the Hon'ble Supreme Court in **United India Insurance Co. Ltd. Vs. Great Eastern Shipping Co. Ltd. [III(2007) CPJ 3 (SC)]**. There is no quarrel of legal proposition with the aforesaid decision.

However, in the present case, not only two separate policies covering different risks have been issued to two separate cover notes, the complainant referred to only the burglary policy while seeking inclusion of Plot No.692, Udyog Vihar, Gurgaon. Therefore, the aforesaid judgement in my opinion would be of no help to the complainant.

9. For the reasons stated hereinabove, I find no merit in the complaint. The complaint is dismissed with no order as to costs.

.....J
V.K. JAIN
PRESIDING MEMBER