
(2013) 04 NCDRC CK 0058

In the National Consumer Disputes Redressal Commission

Aggarwal Forwarding Agency

APPELLANT

Vs

Ramniwas Ravi Prakash

RESPONDENT

Date of Decision : 23-04-2013

Acts Referred:

Citation : 2013 0 NCDRC 290 : 2013 2 CPJ 686

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : KAMRAN MALIK , Mobin Ullah , VIPLAV SHARMA , NAVEEN KUMAR

Judgement

1. THIS revision petition has been filed under Section 21(b) of the Consumer Protection Act, 1986 against the order dated 13.05.2011 passed by the Uttar Pradesh State Consumer Disputes Redressal Commission, Lucknow (hereinafter referred to as "State Commission ") in First Appeal No. 1439 of 2009, according to which the order dated 30.08.2008 passed by the District Forum in Consumer Complaint No. 65/07 was upheld. The District Consumer Disputes Redressal Forum, Gonda, U.P. vide their order dated 30.08.2008 had ordered the petitioner Aggarwal Forwarding Agency to compensate the complainant to the extent of Rs. 2,67,551/- as cost of consignment along with interest @ 9% from 01.09.2007 till realization and Rs. 20,000/- as damages.

2. BRIEFLY stated, the facts of the case are that the complainant/respondent No.1 had booked a consignment of 190 bags of pulses Masur Chauti to be delivered to M/s. Satya Narain Trading Company, Calcutta through the petitioner / opposite party. The complainant had taken policy Number 21/057/96 to insure the grains of its firm from 17.06.1996 to 16.06.1997. It has been stated in the complaint that the Insurance Company had neither issued nor sent Cover Note to the complainant till date. Only declaration form was given to the complainant firm just after orally intimating the policy number to him. It has been mentioned that the consignment was lost in transit but the contention of the petitioner is that it cannot be held liable to pay damages as they have taken all possible precautions and the consignment was booked through a genuine transport company. The petitioner had taken all steps to check the credentials of

the transporter and the chassis number and the truck no. of the truck were noted by them, although it was subsequently revealed that the truck number was not genuine. The petitioner has stated that the complainant should have claimed damages from the insurance company, but the insurance company had repudiated the claim on the ground that the premium for goods and stock and transit of the relevant year had not been remitted. The contention of the complainant/respondent No.1 that the petitioner had booked the consignment through a truck which did not exist in fact and this shows the mala fide intention on the part of the petitioner and it is liable to pay the compensation. In fact, the registration number of the truck by which the consignment is stated to have been transported was, during investigation, found to be the registration number of LMV Vespa Scooter. The District Forum, after taking into account the evidence of the parties, ordered the petitioner to compensate the complainant to the extent of Rs. 2,67,551/- as cost of consignment along with interest @ 9% from 01.09.2007 till realization and also to pay Rs. 20,000/- as damages. An appeal, against this order, was dismissed by the State Commission. It is against this order that the present petition has been filed. At the time of arguments, it was pleaded by the petitioner that he had taken all care to check the credential of various transporters and then appointed the transporter in question for carrying the consignment. He was therefore, not responsible for any deficiency in service. In fact, the investigation done by the police had also not found any fault with him. In fact, the compensation should have been paid by the insurance company, although they have taken the stand that the premium was not paid for the relevant time.

3. IN reply, the learned counsel for Respondent No.1 stated that there were concurrent findings in the matter by the District Forum and the State Commission and hence the present petition deserves to be dismissed. It was very clear from the record that the registration number of the truck was not genuine and it was found to be the registration number of LML Vespa scooter. It was the duty of the petitioner to take care of the transportation aspect and he is guilty of deficiency in service. The learned counsel for the insurance company also stated that the premium for the goods and stock and transit of the relevant year had not been remitted and hence the Cover Note and policy had not been issued as has been stated in Clause 4 & 5 of the complaint.

4. WE have examined the entire material on record and given thoughtful consideration to the arguments advanced before us. The facts of the case make it very clear that the services of the petitioner was engaged by Respondent No.1 for the transportation of goods in question to their destination at Calcutta. It was the duty of the petitioner to ensure that the transportation was arranged properly and in case, the consignment was lost in transit, it is the petitioner, which is at fault in the matter. It is also very clear that the registration number of the truck was not genuine and in fact it was the registration number of Vespa scooter. It is clear therefore, that the petitioner had been careless in discharging its duty for transportation of the goods in question. The orders passed by the

District Forum and the State Commission do not suffer from any infirmity, illegality or jurisdictional error from any angle. The orders are therefore confirmed and the revision petition is ordered to be dismissed with no order as to costs.